

FEDERAL EMPLOYEES' COMPENSATION ACT
As Amended to September 13, 1960

U.S. DEPARTMENT OF LABOR
Arthur J. Goldberg, Secretary
BUREAU OF EMPLOYEES' COMPENSATION
Wm. McCauley, Director
1962

**FEDERAL EMPLOYEES' COMPENSATION ACT (WITH
AMENDMENTS TO SEPTEMBER 13, 1960)**

(Public—No. 267—64th Cong.)¹

(H.R. 15316)

An Act To provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes.

COMPENSATION PAYABLE, WHEN; WAR RISK HAZARDS

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that

(a) The United States shall pay compensation as hereinafter specified for the disability or death of an employee resulting from a personal injury sustained while in the performance of his duty, but no compensation shall be paid if the injury or death is caused by the willful misconduct of the employee or by the employee's intention to bring about the injury or death of himself or of another, or if intoxication of the injured employee is the proximate cause of the injury or death.

(b)² In any case where an employee within the coverage of this Act or any extension thereof, who is employed outside of the continental United States or in Alaska or in the Canal Zone, suffers disability or death from a war-risk hazard, or suffers disability or death during or as a result of capture, detention, or other restraint by a hostile force or person, his disability or death shall in the administration of this Act be deemed to have resulted from personal injury sustained while in the performance of his duty, whether or not the employee was engaged in the course of employment when the disability, or disability resulting in death, occurred or when he was taken by the hostile force or person. This subsection shall not apply to any person (1) whose residence is at or in the vicinity of the place of his employment, and (2) who was not living there solely by virtue of the

¹ Act approved September 7, 1916 (c. 458, 39 Stat. 742, 5 U.S.C. sec. 751 et seq.); amended June 13, 1922 (c. 219, 42 Stat. 650); June 5, 1924 (c. 261, 43 Stat. 389); March 4, 1925 (c. 561, 43 Stat. 1356); June 26, 1926 (c. 695, 44 Stat. 772); February 12, 1927 (c. 110, 44 Stat. 1086); May 13, 1936 (c. 382, 49 Stat. 1270); April 6, 1938 (c. 79, 52 Stat. 200); May 31, 1938 (c. 293, 52 Stat. 586); April 11, 1940 (c. 79, 54 Stat. 105); July 29, 1942 (c. 533, 56 Stat. 725); July 1, 1944 (c. 373, 58 Stat. 712); December 22, 1944 (c. 644, 58 Stat. 887); July 28, 1945 (c. 328, 59 Stat. 503); October 14, 1949 (c. 691, 63 Stat. 854); August 1, 1956 (c. 837, 70 Stat. 833); August 8, 1958 (72 Stat. 538); and September 13, 1960 (74 Stat. 906).

Effective July 16, 1946, the United States Employees' Compensation Commission was abolished and its functions transferred to the Federal Security Agency by sec. 3 of Reorganization Plan No. 2 of 1946 (11 F.R. 7873; 60 Stat. 1095).

Effective May 24, 1950, the functions previously transferred to the Federal Security Agency were transferred by Reorganization Plan No. 19 of 1950 (15 F.R. 3178; 64 Stat. 1271), to the U.S. Department of Labor. See note 5 and p. 59 for details.

² Subsection (b) added by Act of August 8, 1958 (72 Stat. 538). This Act repealed section 5(b) of the Act of July 28, 1945 (c. 328, 59 Stat. 505) as amended, and section 5(b) of the Act of June 30, 1953 (c. 176, 67 Stat. 135) which provided for compensation for disability or death suffered after capture, detention, or other restraint by an enemy of the United States.

exigencies of his employment, unless the person was injured or was taken while he was engaged in the course of his employment, or (3) who is a prisoner of war or a protected person under the Geneva Conventions of 1949 and who is detained or utilized by the United States. Nothing contained in this subsection shall affect the payment of compensation under entitlement of this Act derived otherwise than by reason of this subsection, but compensation for disability or death shall not accrue for any period of time for which pay, other benefit, or gratuity from the United States on account of detention by the enemy, or by reason of the same disability or death, accrues to the disabled person or his dependents, unless such pay, benefits, or gratuity is refunded or renounced.

WAITING TIME

SEC. 2.³ With respect to the first three days of temporary disability the employee shall not be entitled to compensation except as provided in section 9, unless such disability exceeds twenty-one days in duration or is followed by permanent disability.

BASIC BENEFIT FOR TOTAL DISABILITY

SEC. 3.⁴ Except as otherwise provided in this Act, if the disability is total the United States shall pay to the disabled employee during such disability a monthly monetary compensation equal to 66 $\frac{2}{3}$ per centum of his monthly pay, which shall be known as his basic compensation for total disability.

(b) Loss, or loss of use, of both hands, or both arms, or both feet, or both legs, or both eyes or the sight thereof, shall, prima facie, constitute permanent total disability.

BASIC BENEFIT FOR PARTIAL DISABILITY

SEC. 4.⁵ (a) (1) Except as otherwise provided in this Act, if the disability is partial the United States shall pay to the disabled employee during such disability a monthly monetary compensation equal to 66 $\frac{2}{3}$ per centum of the difference between his monthly pay and his monthly wage-earning capacity after the beginning of such partial disability, which shall be known as his basic compensation for partial disability.

(2) The Secretary may require a partially disabled employee to make an affidavit or other report, in such manner and at such times as the Secretary may specify as to his earnings, whether from employment or self-employment. In such affidavit or other report the employee shall include the value of housing, board, lodging, and other advantages which are part of his remuneration for employment or are earnings in self-employment and which can be estimated in money.

³ Amended October 14, 1949 (c. 691, 63 Stat. 855).

⁴ Amended October 14, 1949 (c. 691, 63 Stat. 855).

⁵ Amended October 14, 1949 (c. 691, 63 Stat. 855). This amendment provided also that the words "Administrator," "he," and "his" be substituted respectively for the words "Commission," "it," or "its," wherever necessary. "Secretary," referring to the Secretary of Labor, replaced "Administrator" by Reorganization Plan No. 19 of 1950 (15 F.R. 3178; 64 Stat. 1271). See note 1 and p. 59 for details.

If such individual, when required, fails to make such affidavit or other report, or if in such affidavit or report the employee knowingly omits or understates any part of such earnings or remuneration, he shall forfeit his right to compensation with respect to any period for which such report was required to be made, and such compensation, if already paid, shall be recovered by deducting the amount thereof from the compensation payable to him or otherwise recovered in accordance with section 38, unless such recovery is waived pursuant to such section.

(b) If a partially disabled employee refuses to seek suitable work or refuses or neglects to work after suitable work is offered to, procured by, or secured for him, he shall not be entitled to any compensation.

SCHEDULED DISABILITIES

SEC. 5.⁶ (a) In any case of permanent disability which involves solely the loss, or loss of use, of a member or function of the body, regardless of whether the cause of such disability originates in a part of the body other than such member, or involves disfigurement, as provided in the following schedule, basic compensation for such disability shall, in addition to compensation for any temporary total or temporary partial disability, be payable to the disabled employee for the period specified in such schedule at the rate of 66 $\frac{2}{3}$ per centum of his monthly pay and shall, except as otherwise provided in subsection (b) and in cases involving disfigurement, be in lieu of compensation for such permanent disability under the preceding sections of this Act:

- (1) Arm lost, three hundred and twelve weeks' compensation.
- (2) Leg lost, two hundred and eighty-eight weeks' compensation.
- (3) Hand lost, two hundred and forty-four weeks' compensation.
- (4) Foot lost, two hundred and five weeks' compensation.
- (5) Eye lost, one hundred and sixty weeks' compensation.
- (6) Thumb lost, seventy-five weeks' compensation.
- (7) First finger lost, forty-six weeks' compensation.
- (8) Great toe lost, thirty-eight weeks' compensation.
- (9) Second finger lost, thirty weeks' compensation.
- (10) Third finger lost, twenty-five weeks' compensation.
- (11) Toe other than great toe lost, sixteen weeks' compensation.
- (12) Fourth finger lost, fifteen weeks' compensation.
- (13) Loss of hearing: (A) Complete loss of hearing of one ear, fifty-two weeks' compensation; (B) complete loss of hearing of both ears, two hundred weeks' compensation.
- (14) Binocular vision or percentage of vision: Compensation for loss of binocular vision or for 80 per centum or more of the vision of an eye shall be the same as for the loss of the eye.
- (15) Phalanges: Compensation for loss of more than one phalanx of a digit shall be the same as for loss of the entire digit.

⁶ Amended October 14, 1949 (c. 691, 63 Stat. 855); September 13, 1960 (74 Stat. 907). For effective dates of the amendments see the appropriate sections in Parts I and II, *infra*. The 1960 amendments inserted the phrase "regardless of whether the cause of such disability originates in a part of the body other than such member."

Compensation for loss of the first phalanx shall be one-half of the compensation for loss of the entire digit.

(16) Amputated arm or leg: If, in the case of an arm or a leg, the member is amputated above the wrist or ankle, compensation shall be the same as for the loss of the arm or leg, respectively.

(17) Two or more digits: Compensation for loss, or loss of use, of two or more digits, or one or more phalanges of each of two or more digits, of a hand or foot, shall be proportioned to the loss of use of the hand or foot occasioned thereby.

(18) Total loss of use: Compensation for permanent total loss of use of a member shall be the same as for loss of the member.

(19) Partial loss or partial loss of use: Compensation for permanent partial loss or loss of use of a member may be for proportionate loss or loss of use of the member. The degree of loss of vision or hearing under this schedule shall be determined without regard to correction.

(20) In any case in which there shall be a loss, or loss of use, of more than one member or parts of more than one member as enumerated herein, the award of compensation shall be for the loss, or loss of use, of each such member or part thereof, which awards shall run consecutively, except that where the injury affects only two or more digits of the same hand or foot, subparagraph (17) of this schedule shall apply, and that where partial bilateral loss of hearing is involved, compensation shall be computed upon the loss as affecting both ears.

(21) Disfigurement: Proper and equitable compensation not to exceed \$3,500 shall, in addition to any other compensation payable under this schedule, be awarded for serious disfigurement of the face, head, or neck, if of a character likely to handicap a person in securing or maintaining employment.

(b) Notwithstanding the provisions of subsection (a) of this section and the provisions of sections 3 and 4, if the injury causes the total and permanent loss, or loss of use, of an arm, hand, leg, foot, or eye (including loss of binocular vision), or total and permanent loss of hearing of both ears, whether or not the disability also involves other impairments of the body, the individual's basic compensation for such disability, in addition to compensation for periods of temporary total or temporary partial disability, shall be 66 $\frac{2}{3}$ per centum of his monthly pay for the period specified for such loss, or loss of use, in the schedule to subsection (a) of this section (including paragraphs (16) and (20) thereof), and with respect to any subsequent period shall be as provided in section 3 if the disability is total or as provided in subsection (a) of section 4 if the disability is partial.

(c) The period of compensation payable under the schedule to subsection (a) of this section on account of any injury shall be reduced by the period of compensation paid or payable under such schedule on account of a prior injury if compensation in both cases is for disability of the same member or function, or different parts of the same member or function, or for disfigurement, and the Secretary finds that compensation payable on account of the subsequent disability in whole or in part would duplicate the compensation payable on account of the pre-

existing disability. In such cases, for the purposes of disabilities specified in subsection (b), compensation for disability continuing after the scheduled period shall commence upon expiration of such period as reduced under this subsection.

(d) (1) If an individual who has sustained disability compensable under subsection (a) (including any disability compensable under the schedule to subsection (a) by virtue of subsection (b)), and who has filed a valid claim in his lifetime, dies, from causes other than the injury, before the expiration of the compensable period specified in such schedule, the compensation specified in such schedule and unpaid at the individual's death, whether or not accrued or due at his death, shall be paid, under an award made before or after such death, for the period specified in such schedule, to and for the benefit of the persons then in being within the classes and in the proportions and upon the conditions specified in this subsection and in the order named:

(A) to the widow (as defined in section 10(II)) or wholly dependent widower (as specified in section 10(B)), if there is no child (as so defined) under the age of eighteen or incapable of self-support; or

(B) if there are both such a widow or widower and such a child or children, one-half to such widow or widower and the other half to such child or children; or

(C) if there is no such widow or widower but such a child or children, then to such child or children; or

(D) if there is no survivor in the above classes, then to the parent or parents wholly or partly dependent for support upon the decedent, or to other wholly or partly dependent relatives listed in section 10(F), or to both, in such proportions as may be provided by regulation; or

(E) if there is no survivor in any of the above classes, and no burial allowance is payable under section 11, then such amount, not exceeding the amount which would be expendable under section 11 if such section were applicable, shall be paid to reimburse any person or persons, equitably entitled thereto, to the extent and in the proportions that they shall have paid the expenses of burial of such disabled individual, but no compensated insurer or other person obligated by law or contract to pay such expenses, and no State or political subdivision or entity, shall be deemed so equitably entitled.

(2) Except for the amount of such compensation payable with respect to any period preceding the disabled individual's death, the payments to be made under paragraph (1) shall be at the basic rate of compensation for permanent disability specified in subsection (a) of this section, even if at the time of such death the decedent was entitled to the augmented rate specified in section 6(a).

(3) (A) The right of any surviving beneficiary listed in paragraph (1) to any payment pursuant to this subsection, except a beneficiary under clause (E) thereof, shall be conditioned upon his being alive to receive such payment and no such beneficiary shall have a vested right to any such payment.

(B) The entitlement of any beneficiary to payments under clauses (A) to (D) of paragraph (1) shall cease upon the happening of any event which would terminate the right of such beneficiary to compensation for death under section 10. Upon the cessation of the entitlement of any beneficiary under such clauses (A) to (D), the compensation remaining unpaid under paragraph (1) which would have been payable to him had such entitlement continued shall be payable to the surviving beneficiary or beneficiaries, if any, within the same class or, if there are none, then to the beneficiary or beneficiaries next entitled to priority under such paragraph.

AUGMENTED COMPENSATION FOR DEPENDENTS, MAXIMUM AND MINIMUM COMPENSATION, ATTENDANTS ALLOWANCE, AND SO FORTH

SEC. 6.⁷ (a) (1) While the disabled employee has one or more dependents, his basic compensation for disability payable under section 3 or section 5(a) (including compensation payable under the schedule to section 5(a) by virtue of section 5(b)) shall be augmented at the rate of $8\frac{1}{3}$ per centum of his monthly pay, and his basic compensation for disability payable under section 4(a) shall be augmented at the rate of $8\frac{1}{3}$ per centum of the difference between his monthly pay and his monthly wage-earning capacity: *Provided*, That for any period of temporary total disability the augmentation of his basic compensation for disability payable under section 3 shall be limited to that part of his monthly pay which is not in excess of \$420.

(2) As used in this subsection, the term "dependent" shall mean any of the following:

(A) A wife, if (i) she is a member of the same household as the employee or is receiving regular contributions from him toward her support, or (ii) he has been ordered by any court to contribute to her support.

(B) A husband, if wholly dependent by reason of his own physical or mental disability upon the employee for support.

(C) An unmarried child (as defined in section 10(II)), while such child (i) is under eighteen years of age or, if over eighteen, is incapable of self-support by reason of mental or physical disability, and (ii) is living with the employee or receiving regular contributions toward his support from the employee.

(D) A parent (as defined in section 10(II)), while wholly dependent upon and supported by the employee.

(b) (1) In addition to the monthly compensation otherwise specified in this Act, the Secretary may pay an injured employee, who has been awarded compensation, an additional sum of not more than \$125 a month, as the Secretary may deem necessary, when the Secretary shall find that the service of an attendant is necessary constantly to be used by reason of the employee's being totally blind, or having lost both hands or both feet or the use thereof, or being paralyzed and unable to walk, or by reason of other disability resulting from

⁷ Amended February 12, 1927 (c. 110, sec. 1, 44 Stat. 1086); May 13, 1936 (c. 382, 49 Stat. 1270); October 14, 1949 (c. 691, sec. 105, 63 Stat. 858); September 13, 1960 (74 Stat. 906). The 1960 amendments raised the amounts stated in subsection (b) (1) and (2) and subsection (c) from \$75, \$50, and \$112.50, respectively. For effective date see the appropriate section in Part I, *infra*.

the injury actually rendering him so helpless as to require constant attendance.

(2) The Secretary may pay to any disabled individual who is undergoing vocational rehabilitation pursuant to the Secretary's direction under section 9(b) additional compensation necessary for his maintenance, but not to exceed \$100 per month.

(c) Except as otherwise authorized under section 42, the monthly rate of compensation for disability, including any augmented compensation payable by reason of subsection (a) but not including any sum payable by reason of subsection (b), shall not be more than \$525 per month and in cases of total disability shall not be less than \$180 per month, unless the employee's monthly pay is less in which case his monthly rate of compensation for total disability shall be equal to his full monthly pay.

(d) (1) In the case of any person who at the time of the injury was a minor or employed in a learner's capacity and who, prior to the injury, was not physically or mentally handicapped, the Secretary shall, on any review under section 37 after the time when the wage-earning capacity of such person would probably, but for the injury, have increased, prospectively recompute the monetary compensation payable for disability on the basis of an assumed monthly pay corresponding to such probable increased wage-earning capacity. The Secretary may, on any review under section 37 after a disabled employee has attained the age of seventy years and the wage-earning capacity of the disabled employee would probably, aside from and independently of the effects of the injury, have decreased on account of old age, prospectively recompute the monetary compensation payable for disability on the basis of an assumed monthly pay corresponding to such probable decreased wage-earning capacity.

(2) If a disabled individual, without good cause, fails to apply for and undergo vocational rehabilitation when so directed pursuant to section 9(b), and the Secretary, upon review under section 37, finds that in the absence of such failure the individual's wage-earning capacity would probably have substantially increased, the Secretary may prospectively reduce the individual's monetary compensation in accordance with what would probably have been his wage-earning capacity in the absence of such failure, until the individual in good faith complies with the Secretary's direction.

OTHER PAYMENTS AND EXCLUSIVENESS OF REMEDY

SEC. 7.⁸ (a) That as long as the employee is in receipt of compensation under this Act, or, if he has been paid a lump sum in commutation of installment payments, until the expiration of the period during which such installment payments would have continued, he shall not receive from the United States any salary, pay, or remuneration whatsoever except in return for services actually performed, and except pensions for service in the Army or Navy of the United States: *Provided*, That eligibility for or receipt of benefits under the Civil Service

⁸ Amended July 1, 1944 (c. 373, 58 Stat. 712); October 14, 1949 (c. 691, 63 Stat. 861); September 13, 1960 (74 Stat. 907). For effective dates of the 1960 amendments permitting payment of schedule awards and retirement benefits and for effective date of provisions pertaining to election of benefits see the appropriate sections in Part I, *infra*.

Retirement Act shall in no way impair the employee's right to receive compensation for scheduled disabilities specified in section 5(a) of this Act: *Provided further*, That whenever any person is entitled to receive any benefits under this Act by reason of his injury, or by reason of the death of an employee, as defined in section 40, and is also entitled to receive from the United States any payments or benefits (other than the proceeds of any insurance policy), by reason of such injury or death under any other Act of Congress, because of service by him (or in the case of death, by the deceased) as an employee, as so defined, or because of service by him (or in the case of death, by the deceased) in the Armed Forces of the United States, such person shall elect which benefits he shall receive. Such election shall be made within one year after the injury or death, or such further time as the Secretary may for good cause allow, and when made shall be irrevocable unless otherwise provided by law.

(b) The liability of the United States or any of its instrumentalities under this Act or any extensions thereof with respect to the injury or death of an employee shall be exclusive, and in place, of all other liability of the United States or such instrumentality to the employee, his legal representative, spouse, dependents, next of kin, and anyone otherwise entitled to recover damages from the United States or such instrumentality, on account of such injury or death, in any direct judicial proceedings in a civil action or in admiralty, or by proceedings, whether administrative or judicial, under any other workmen's compensation law or under any Federal tort liability statute: *Provided, however*, That this subsection shall not apply to a master or a member of the crew of any vessel.

ANNUAL AND SICK LEAVE

SEC. 8.⁹ If at the time the disability begins the employee has annual or sick leave to his credit he may use such leave until it is exhausted, in which case his compensation for disability shall not begin, and the time periods specified in section 2 shall not begin to run, until the annual or sick leave has ceased.

MEDICAL, ETC., SERVICES

SEC. 9.¹⁰ (a) That for any injury sustained by an employee while in the performance of duty, whether or not disability has arisen, and notwithstanding that the employee has accepted or is entitled to receive benefits under the Civil Service Retirement Act, the United States shall furnish to the employee all services, appliances, and supplies prescribed or recommended by duly qualified physicians which, in the opinion of the Secretary, are likely to cure or to give relief or to reduce the degree or the period of disability or to aid in lessening the amount of the monthly compensation. Such services, appliances, and

⁹ Amended October 14, 1949 (c. 691, 63 Stat. 854).

¹⁰ Amended June 26, 1926 (c. 695, 44 Stat. 772); October 14, 1949 (c. 691, 63 Stat. 862); September 13, 1960 (74 Stat. 907). The last sentence in sec. 9(a) added by the Act of June 26, 1926 validated awards theretofore made and was a transitional provision. The Commission referred to is the former United States Employees' Compensation Commission. See note 1. The 1960 amendments inserted after the word "arisen" in the first sentence the phrase beginning "and notwithstanding" and ending "Civil Service Retirement Act." For effective date of the amendment see the appropriate section in Part I, *infra*.

supplies shall be furnished by or upon the order of United States medical officers and hospitals, but where this is not practicable they shall be furnished by or upon the order of private physicians and hospitals designated or approved by the Secretary. For the securing of such services, appliances, and supplies, the employee may be furnished transportation, and may be paid all expenses incident to the securing of such services, appliances, and supplies, which, in the opinion of the Secretary, are necessary and reasonable. All such expenses when authorized or approved by the Secretary shall be paid from the employees' compensation fund. The Secretary may, under such limitations or conditions as he shall deem necessary, authorize employing establishments of the United States to provide for the initial furnishing of medical and other benefits under this section and the Secretary may certify for payment out of the Employees' Compensation Fund vouchers for expenses thus incurred for such benefits, upon certification by the person required by section 24 to make reports of injury that the expense was incurred in respect to injury which was accepted by the employing establishment as probably compensable under this Act. The form and content of such certification shall be prescribed by the Secretary. Any award heretofore made by the Commission on account of expenses incurred under section 9 of the Act of September 7, 1916, prior to the passage of this Act, shall be valid, if such award would be valid if made on account of expenses incurred under this section after the passage of this Act.

(b) The Secretary may direct any permanently disabled individual whose disability is compensable under this Act to undergo vocational rehabilitation and shall make provision for furnishing vocational rehabilitation services in such cases. In providing for such services, the Secretary shall, insofar as practicable, utilize the services or facilities of State agencies (or corresponding agencies in Territories or possessions) cooperating with him in carrying out the purposes of the Vocational Rehabilitation Act, as amended, except to the extent that the Secretary provides for furnishing such services under subsection (a) of this section. The cost of providing such services to individuals undergoing vocational rehabilitation pursuant to such direction shall be paid from the employees' compensation fund, except that in reimbursing any State agency (or corresponding agency of a Territory or possession) under any arrangement pursuant to this subsection there shall be excluded any cost to such agency reimbursable in full under section 3(a) (4) of the Vocational Rehabilitation Act, as amended.

COMPENSATION FOR DEATH

SEC. 10.¹¹ That if death results from the injury the United States shall pay to the following persons for the following periods a monthly compensation equal to the following percentages of the deceased employee's monthly pay:

¹¹ Amended February 12, 1927 (c. 110, 44 Stat. 1086); July 28, 1945 (c. 328, 59 Stat. 503); October 14, 1949 (c. 691, 63 Stat. 854); September 13, 1960 (74 Stat. 906). The 1960 amendments raised the amount in (K) from \$150. For effective date see appropriate section in Part I, *infra*.

WIDOW

(A) To the widow, if there is no child, 45 per centum. This compensation shall be paid until her death or marriage.

WIDOWER

(B) To the widower, if there is no child, 45 per centum if wholly dependent for support, by reason of his physical or mental disability, upon the deceased employee at the time of her death. This compensation shall be paid until his death or marriage or until he becomes capable of self-support.

CHILDREN

(C) To the widow or widower, if there is a child, 40 per centum and in addition thereto 15 per centum for each child, not to exceed a total of 75 per centum for such widow or widower and children. The compensation payable on account of any child shall cease when he dies, marries, or reaches the age of eighteen, or, if over eighteen, and incapable of self-support, becomes capable of self-support.

ORPHAN CHILDREN

(D) To the children, if there is no widow or widower, 35 per centum for one child and 15 per centum additional for each additional child, not to exceed a total of 75 per centum, divided among such children share and share alike. The compensation of each child shall be paid until he dies, marries, or reaches the age of eighteen, or, if over eighteen and incapable of self-support, becomes capable of self-support.

PARENTS

(E) To the parents, if one is wholly dependent for support upon the deceased employee at the time of his death and the other is not dependent to any extent, 25 per centum; if both are wholly dependent, 20 per centum to each; if one is or both are partly dependent, a proportionate amount in the discretion of the Secretary.

The above percentages shall be paid if there is no widow, widower, or child. If there is a widow, widower, or child, there shall be paid so much of the above percentages as, when added to the total percentages payable to the widow, widower, and children, will not exceed a total of 75 per centum.

OTHER DEPENDENTS

(F) To the brothers, sisters, grandparents, and grandchildren, if one is wholly dependent upon the deceased employee for support at the time of his death, 20 per centum to such dependent; if more than one are wholly dependent, 30 per centum, divided among such dependents share and share alike; if there is no one of them wholly dependent, but one or more partly dependent, 10 per centum divided among such dependents share and share alike.

The above percentages shall be paid if there is no widow, widower, child, or dependent parent. If there is a widow, widower, child, or dependent parent, there shall be paid so much of the above percentages as, when added to the total percentage payable to the widow, widower, children, and dependent parents, will not exceed a total of 75 per centum.

TERM OF PAYMENTS

(G) The compensation of each beneficiary under clauses (E) and (F) shall be paid from the time of death, until he, if a parent or grandparent, dies, marries, or ceases to be dependent, or, if a brother, sister, or grandchild, dies, marries, or reaches the age of eighteen, or if over eighteen and incapable of self-support, becomes capable of self-support.

DEFINITIONS

(II) As used in this section, the term "child" includes stepchildren, adopted children, and posthumous children, but does not include married children. The terms "brother" and "sister" include stepbrothers and stepsisters, half brothers and half sisters, and brothers and sisters by adoption, but do not include married brothers or married sisters. All of the above terms and the term "grandchild" include only persons who at the time of the death of the deceased employee are under eighteen years of age or over that age and incapable of self-support. The term "parent" includes stepparents and parents by adoption. The term "widow" includes only the decedent's wife living with or dependent for support upon him at the time of his death or living apart for reasonable cause or by reason of his desertion.

READJUSTMENTS

(I) Upon the cessation of compensation under this section to or on account of any person, the compensation of the remaining persons entitled to compensation for the unexpired part of the period during which their compensation is payable shall be that which such persons would have received if they had been the only persons entitled to compensation at the time of the decedent's death.

APPORTIONMENTS

(J) In case there are two or more classes of persons entitled to compensation under this section and the apportionment of such compensation, above provided, would result in injustice, the Secretary may, in his discretion, modify the apportionment to meet the requirements of the case.

WAGE BASIS

(K) In computing compensation under this section the monthly pay shall be considered not to be less than \$240, but the total monthly compensation shall not exceed the monthly pay computed as provided in section 12 or the sum of \$525.

ACCEPTING PAYMENTS AFTER MARRIAGE

(L) If any person entitled to compensation under this section or section 5 or 6, whose compensation by the terms of this or of such other section ceases or is to be reduced upon his marriage or upon the marriage of his dependent, accepts after such marriage any payments or compensation to which he is not entitled, he shall be punished by a fine of not more than \$2,000 or by imprisonment for not more than one year, or by both such fine and imprisonment.

BURIAL, ETC., EXPENSES

SEC. 11.¹² If death results from the injury the United States shall pay, to the personal representative of the deceased employee or otherwise, funeral and burial expenses not to exceed \$800, in the discretion of the Secretary. In the case of an employee whose home is within the United States, if his death results from the injury while he is away from his home or official station or is outside of the United States, or if his death results from other causes while he is away from his home or official station for the purpose of receiving medical or other services, appliances, or supplies under section 9 or examination under section 21, and if so desired by his relatives, the body shall, in the discretion of the Secretary, be embalmed and transported in a hermetically sealed casket to the home or last place of residence of the employee at the expense of the employees' compensation fund. If, in such cases, request for return of the body is not made by the decedent's relatives, the Secretary may provide for the disposition of the remains and incur, and cause payment from the employees' compensation fund of, such necessary transportation, funeral, and burial expenses as under the circumstances shall be reasonable.

COMPUTATION OF PAY

SEC. 12.¹³ (a) In computing monetary compensation for disability or death upon the basis of monthly pay, such pay shall be determined in accordance with the provisions of this section.

(b) The value of subsistence and quarters, and of any other form of remuneration in kind for services if its value can be estimated in money, shall be included as part of the pay. Overtime pay, or additional pay or allowance authorized outside the United States because of differential in cost of living or other special circumstance, or bonus or premium pay for extraordinary service (including amounts paid as bonus for particularly hazardous service in time of war) shall not be taken into account. The term "overtime pay," as used in this subsection, means pay for hours of service in excess of those of a statutory or other basic workweek, or other basic unit of work time, as observed by the establishment in which the employee is employed.

(c) (1) The monthly pay at the time of injury shall be deemed to be one-twelfth of the employee's average annual earnings at that

¹² Amended February 12, 1927 (c. 110, 44 Stat. 1086); July 28, 1945 (c. 328, 59 Stat. 503); October 14, 1949 (c. 691, 63 Stat. 854); September 13, 1960 (74 Stat. 906). The 1960 amendments raised the amount from \$400 to \$800.

¹³ Amended October 14, 1949 (c. 691, 63 Stat. 854). See Act of October 28, 1949 (c. 782, 63 Stat. 972).

time, except that when compensation is paid upon a weekly basis, the weekly equivalent of such monthly pay shall be deemed to be one-fifty-second of such average annual earnings: *Provided*, That, for so much of the period of total disability as does not exceed ninety calendar days from the date of the beginning of compensable disability, the compensation may, in the discretion of the Secretary, be computed on the basis of the employee's actual daily wage at the time of injury and in that event he may be paid compensation for such days as he would have worked but for the injury.

(2) Average annual earnings shall be determined as follows:

(A) If the employee worked in the employment in which he was working at the time of his injury during substantially the whole of the year immediately preceding such injury, his average annual earnings shall consist of the product obtained by multiplying his daily wage for the particular employment, or the average thereof if the daily wage has fluctuated, by three hundred if he was employed on the basis of a six-day workweek, two hundred and eighty if employed on the basis of a five-and-one-half-day week, and two hundred and sixty if employed on the basis of a five-day week, except that if the employment was in a position for which an annual rate of compensation was fixed, such average annual earnings shall consist of such annual rate of compensation.

(B) If the injured employee did not work in such employment during substantially the whole of such year, but the position was such as would have afforded employment for substantially a whole year, then the average annual earnings of such employee shall be equal to the average annual earnings of an employee of the same class working substantially the whole of such immediately preceding year in the same or similar employment by the United States in the same or neighboring place, as determined in accordance with clause (A).

(C) If either of the foregoing methods of determining the average annual earnings of an injured employee cannot reasonably and fairly be applied, such average annual earnings shall be such sum as, having regard to the previous earnings of the injured employee in Federal employment, and of other employees of the United States in the same or most similar class working in the same or most similar employment in the same or neighboring locality, or to other previous employment of such employee, or to any other relevant factors, shall reasonably represent the annual earning capacity of the injured employee in the employment in which he was working at the time of the injury: *Provided*, That his average annual earnings shall consist of not less than one hundred and fifty times the average daily wage which he shall have earned in such employment during the days when so employed within the period of one year immediately preceding his injury.

(D) Such rules shall, so far as practicable, be also applied in the case of an employee serving without pay or at nominal pay: *Provided*, That (i) the average annual earnings of such employee shall in no event exceed the basic rate of annual compensation specified under the Classification Act of 1949, as amended, for positions in grade GS-15 at the bottom of such grade, and (ii) if his average

annual earnings cannot reasonably and fairly be determined in the manner otherwise provided in this section, such average annual earnings shall be determined at the reasonable value of the service rendered but not in excess of \$3,600 per annum.

(d) As used in this section the term "year" means a period of twelve calendar months, or the equivalent thereof as specified in regulations issued by the Secretary.

COMPUTATION OF WAGE-EARNING CAPACITY

SEC. 13.¹⁴ (a) In the determination of an employee's wage-earning capacity after the beginning of partial disability, the rules specified in section 12(b) shall apply.

(b) The wage-earning capacity of an injured employee, in determining compensation for partial disability other than permanent partial disability compensable under section 5, shall be determined by his actual earnings if such actual earnings fairly and reasonably represent his wage-earning capacity: *Provided, however,* That if the employee has no actual earnings, or his actual earnings do not fairly and reasonably represent his wage-earning capacity, such wage-earning capacity as shall appear reasonable under the circumstances of the case shall be determined, having due regard to the nature of his injury, the degree of physical impairment, his usual employment, his age, his qualifications for other employment, the availability of suitable employment, and any other factors or circumstances in the case which may affect his capacity to earn wages in his disabled condition.

LUMP-SUM SETTLEMENTS

SEC. 14.¹⁵ That in cases of death or of permanent total or permanent partial disability, if the monthly payment to the beneficiary is less than \$5 a month, or if the beneficiary is or is about to become a nonresident of the United States, or if the Secretary determines that it is for the best interest of the beneficiary, the liability of the United States for compensation to such beneficiary may be discharged by the payment of a lump sum equal to the present value of all future payments of compensation computed at 4 per centum true discount compounded annually. The probability of the beneficiary's death before the expiration of the period during which he is entitled to compensation shall be determined according to the American Experience Table of Mortality; but in case of compensation to the widow or widower of the deceased employee, such lump sum shall not exceed sixty months compensation. The probability of the happening of any other contingency affecting the amount or duration of the compensation shall be disregarded.

NOTICE OF INJURY

SEC. 15.¹⁶ That every employee injured in the performance of his duty, or some one on his behalf, shall, within forty-eight hours after

¹⁴ Amended October 14, 1949 (c. 691, 63 Stat. 854); September 13, 1960 (74 Stat. 908).

¹⁵ For effect on lump-sum settlements of Civil Service Retirement Annuity see p. 58.

¹⁶ See note 20 to sec. 20. See also sec. 303(f)(2) of the Federal Employees' Compensation Act amendments of 1949 (c. 891, 63 Stat. 854) set out in Part II, p. 31, *infra*.

the injury, give written notice thereof to the immediate superior of the employee. Such notice shall be given by delivering it personally or by depositing it properly stamped and addressed in the mail.

PARTICULARS OF NOTICE

SEC. 16. That the notice shall state the name and address of the employee, the year, month, day, and hour when and the particular locality where the injury occurred, and the cause and nature of the injury, and shall be signed by and contain the address of the person giving the notice.

COMPENSATION WITHHELD, WHEN

SEC. 17.¹⁷ That unless notice is given within the time specified or unless the immediate superior has actual knowledge of the injury, no compensation shall be allowed, but for any reasonable cause shown, the Secretary may allow compensation if the notice is filed within one year after the injury.

CLAIMS

SEC. 18.¹⁸ That no compensation under this Act shall be allowed to any person, except as provided in section 38, unless he or some one on his behalf shall, within the time specified in section 20, make a written claim therefor. Such claim shall be made by delivering it at the office of the Secretary or to any person whom the Secretary may by regulation designate, or by depositing it in the mail properly stamped and addressed to the Secretary or to any person whom the Secretary may by regulation designate.

FORMS

SEC. 19.¹⁹ That every claim shall be made on forms to be furnished by the Secretary and shall contain all the information required by the Secretary. Each claim shall be sworn to by the person entitled to compensation or by the person acting on his behalf, and, except in case of death, shall be accompanied by a certificate of the employee's physician stating the nature of the injury and the nature and probable extent of the disability. For any reasonable cause shown the Secretary may waive the provisions of this section.

TIME FOR CLAIMS

SEC. 20.²⁰ That all original claims for compensation for disability shall be made within sixty days after the injury. In cases of latent disability due to radiation or other causes, the time for filing claim shall not begin to run until the employee has a compensable disability

¹⁷ See note 16, *supra*.

¹⁸ See note 16, *supra*.

¹⁹ See note 16, *supra*.

²⁰ Amended June 13, 1922 (c. 219, 42 Stat. 650); July 28, 1945 (c. 328, 59 Stat. 503); September 13, 1960 (74 Stat. 908). The amendment of July 28, 1945 added the sentence beginning with the word "Failure," and was retroactive to all cases where the injury occurred on or after December 7, 1940. The amendment of September 13, 1960 added the sentence beginning "In case of latent disability." See also note 16. For effective date of 1960 amendments see the appropriate section of Part I, *infra*.

and is aware, or by the exercise of reasonable diligence should have been aware of the causal relationship of the compensable disability to his employment: *Provided*, That the time for giving notice of injury in such cases shall begin to run as soon as the employee is aware, or in the exercise of reasonable diligence should have been aware, that his condition is causally related to his employment, regardless of whether or not there is a compensable disability. All original claims for compensation for death shall be made within one year after the death. For any reasonable cause shown the Secretary may allow original claims for compensation for disability to be made at any time within one year. Failure to give notice of injury or to file claim for compensation for disability or death within the time and in the manner prescribed by this Act shall not bar the claim of any person thereunder if such claim is filed within five years after the injury or death and if the Secretary shall find (1) that such failure was due to circumstances beyond the control of the person claiming benefits, or (2) that such person has shown sufficient cause or reason in explanation thereof, and material prejudice to the interest of the United States has not resulted from such failure; and upon such finding the Secretary may waive compliance with the applicable provisions of the Act.

MEDICAL EXAMINATIONS

SEC. 21.²¹ That after the injury the employee shall, as frequently and at such times and places as may be reasonably required, submit himself to examination by a medical officer of the United States or by a duly qualified physician designated or approved by the Secretary. The employee may have a duly qualified physician designated and paid by him present to participate in such examination. If the employee refuses to submit himself for or in any way obstructs any examination, his right to claim compensation under this Act shall be suspended until such refusal or obstruction ceases. No compensation shall be payable while such refusal or obstruction continues, and the period of such refusal or obstruction shall be deducted from the period for which compensation is payable to him.

For any examination required by the Secretary the employee shall be paid all expenses incident to such examination which, in the opinion of the Secretary, are necessary and reasonable, including transportation and loss of wages incurred in order to submit to examination. All such expenses when authorized or approved by the Secretary shall be paid from the employees' compensation fund.

MEDICAL REFEREE

SEC. 22.²² That in case of any disagreement between the physician making an examination on the part of the United States and the employee's physician the Secretary shall appoint a third physician duly qualified, who shall make an examination.

²¹ Amended June 26, 1926 (c. 695, 44 Stat. 772).

²² See note 5, *supra*.

FEES

SEC. 23.²³ (a) Fees or examinations made on the part of the United States under sections 21 and 22 by physicians who are not officers or employees of the United States and not under contract to the United States to render medical services to its employees shall be fixed by the Secretary. Such fees, and any sum payable to the employee under section 21, which authorized or approved by the Secretary, shall be paid from the Employee's Compensation Fund.

(b) A claimant may be represented before the Secretary in any proceeding under this Act by any person duly authorized by such claimant. No claim for legal services or for any other services rendered in respect of a case, claim, or award for compensation under this Act, to or on account of any person, shall be valid unless approved by the Secretary. Any person who receives any fee or other consideration, or any gratuity on account of services so rendered, unless such fee, consideration, or gratuity, is so approved, or who solicits employment for himself or another in respect of any case, claim, or award for compensation under (or to be brought under) this Act shall be guilty of a misdemeanor and upon conviction thereof shall, for each offense, be punished by a fine of not more than \$1,000 or by imprisonment not to exceed one year, or by both such fine and imprisonment.

(c) If any person in proceedings before the Secretary or his duly authorized representative disobeys or resists any lawful order or process, or misbehaves during a hearing or so near the place thereof as to obstruct the same, the Secretary or his duly authorized representative shall certify the facts to the district court having jurisdiction in the place in which he is sitting (or to the district court of the United States for the District of Columbia if he is sitting in such district) which shall thereupon in a summary manner hear the evidence as to the acts complained of, and if the evidence so warrants, punish such person in the same manner and to the same extent as for a contempt committed before the court, or commit such person upon the same conditions as if the doing of the forbidden act had occurred with reference to the process of or in the presence of the court.

REPORT OF INJURIES

SEC. 24.²⁴ (a) That immediately after an injury to an employee resulting in his death or in his probable disability, his immediate superior shall make a report to the Secretary containing such information as the Secretary may require, and shall thereafter make such supplementary reports as the Secretary may require.

(b) Whoever, being an officer or employee of the United States charged with the responsibility for making the reports specified in subsection (a), willfully fails, neglects, or refuses to make any such report or knowingly files a false report, or induces, compels, or directs an injured employee to forego filing of any claim for compensation or other benefits provided under this Act or any extension or appli-

²³ Amended June 26, 1926 (c. 695, 44 Stat. 772); October 14, 1949 (c. 691, 63 Stat. 854).

²⁴ Amended September 13, 1960 (74 Stat. 908) by the addition of subsection (b).

cation thereof, or willfully retains any notice, report, claim, or paper which is required to be filed under this Act or any extension or application thereof, or regulations promulgated thereunder shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500 or imprisoned not more than one year, or both.

ASSIGNMENTS, ETC.

SEC. 25. That any assignment of a claim for compensation under this Act shall be void and all compensation and claims therefor shall be exempt from all claims of creditors.

ASSIGNMENTS OF DAMAGE CLAIMS AGAINST THIRD PARTIES

SEC. 26.²⁵ If any injury or death for which compensation is payable under this Act is caused under circumstances creating a legal liability upon some person other than the United States to pay damages therefor, the Secretary may require the beneficiary to assign to the United States any right of action he may have to enforce such liability of such other person or any right which he may have to share in any money or other property received in satisfaction of such liability of such other person, or the Secretary may require said beneficiary to prosecute said action in his own name. Any employee who is required to appear as a party or witness in the prosecution of said action while so engaged, in an active duty status.

If the beneficiary shall refuse to make such assignment or to prosecute said action in his own name when required by the Secretary, he shall not be entitled to any compensation under this Act.

The cause of action when assigned to the United States may be prosecuted or compromised by the Secretary, and if the Secretary realizes upon such cause of action he shall apply the money or other properties so received in the following manner: After deducting the amount of any compensation already paid to the beneficiary and the expenses of such realization or collection, which sum shall be placed to the credit of the employees' compensation fund, the surplus, if any, shall be paid to the beneficiary and credited upon any future payments of compensation payable to him on account of the same injury.

SETTLEMENTS WITH THIRD PARTIES

SEC. 27. That if an injury or death for which compensation is payable under this Act is caused under circumstances creating a legal liability in some person other than the United States to pay damages therefor, and a beneficiary entitled to compensation from the United States for such injury or death receives, as a result of a suit brought by him or on his behalf, or as a result of a settlement made by him or on his behalf, any money or other property in satisfaction of the liability of such other person, such beneficiary shall, after deducting the costs of suit and a reasonable attorney's fee, apply the money or other property so received in the following manner:

²⁵ Amended September 13, 1960 (74 Stat. 908) by the addition of the last sentence of the first paragraph.

(A) If his compensation has been paid in whole or in part, he shall refund to the United States the amount of compensation which has been paid by the United States and credit any surplus upon future payments of compensation payable to him on account of the same injury. Any amount so refunded to the United States shall be placed to the credit of the employees' compensation fund.

(B) If no compensation has been paid to him by the United States, he shall credit the money or other property so received upon any compensation payable to him by the United States on account of the same injury.

ADMINISTRATION

SEC. 28.²⁶ This Act shall be administered by the Secretary. The Secretary is authorized to delegate to any officer or employee of the Department of Labor any of the powers conferred upon him by this Act.

SEC. 28a.²⁷ The Secretary may obtain, in all cases, in addition to the reports provided in section 24, such information and such reports from employees of the departments as may be agreed upon by the Secretary and the heads of the respective departments.

POWERS AS TO WITNESSES

SEC. 29.²⁸ That the Secretary, shall have power to issue subpoenas for and compel the attendance of witnesses within a radius of one hundred miles, to require the production of books, papers, documents, and other evidence, to administer oaths, and to examine witnesses, upon any matter within the jurisdiction of the Secretary.

EMPLOYEES OF SECRETARY

SEC. 30.²⁹ That the Secretary shall have such assistants, clerks, and other employees as may be from time to time provided by Congress. They shall be appointed from lists of eligibles to be supplied by the Civil Service Commission, and in accordance with the civil-service law.

REPEAL—ANNUAL ESTIMATES

SEC. 31.³⁰ Repealed.

RULES, REGULATIONS, ETC.

SEC. 32.³¹ That the Secretary is authorized to make necessary rules and regulations for the enforcement of this Act, and shall decide all questions arising under this Act.

²⁶ Amended October 14, 1949 (c. 691, 63 Stat. 854). See also notes 1 and 5, *supra*.

²⁷ See note 5, *supra*.

²⁸ See note 5, *supra*.

²⁹ See note 5, *supra*.

³⁰ Repealed September 12, 1950 (c. 946, 64 Stat. 843). Section related to annual estimates to be submitted to the Secretary of the Treasury of necessary appropriations.

³¹ The Acts of August 14, 1959 (73 Stat. 339) July 12, 1960 (74 Stat. 750) provide, in part, as follows: "That in the adjudication of claims under section 42 of the said Act of 1916, for benefits payable from this appropriation, authority under section 32 of the Act to make rules and regulations shall be construed to include the nature and extent of the proofs and evidence required to establish the right to such benefits without regard to the date of the injury or death for which claim is made." See also notes 1 and 5, *supra*, and section 42, *infra*.

ACCIDENT PREVENTION AND ANNUAL REPORTS

SEC. 33. (a) That the Secretary shall make to Congress at the beginning of each regular session a report of his work for the preceding fiscal year, including a detailed statement of appropriations and expenditures, a detailed statement showing receipts of and expenditures from the employees' compensation fund, and his recommendations for legislation.

(b) ³² The provisions of section 41 of the Act of March 4, 1927 (c. 509, 44 Stat. 1424) as amended, shall, insofar as not inapplicable, apply in the same manner and to the same extent, as though such provisions were incorporated in this Act.

(c) ³³ In order to reduce the number of accidents and injuries among Government officers and employees, encourage safe practices, eliminate work hazards and health risks, and reduce compensable injuries, the heads of the various departments and agencies are authorized and directed to develop, support, and foster organized safety promotion, and the President may also establish by Executive order a safety council composed of representatives of Government departments and agencies to serve as an advisory body to the Secretary in furtherance of the safety program carried out by the Secretary pursuant to this section, and the President may undertake such other measures as he may deem proper to prevent injuries and accidents to persons covered by this Act. Departments and other agencies of the United States shall keep such records of injuries and accidents to persons covered by this Act, whether or not resulting in loss of time or the payment or furnishing of benefits, and make such statistical or other reports and upon such forms as the Secretary may by regulation prescribe.

EXPENSES

SEC. 34.³⁴ That for the fiscal year ending June 30, 1917, there is hereby authorized to be appropriated, from any money in the Treasury not otherwise appropriated, the sum of \$50,000 for the work of the commission, including salaries of the commissioners and of such assistants, clerks, and other employees as the commission may deem necessary, and for traveling expenses, expenses of medical examinations under sections 21 and 22, reasonable traveling and other expenses and loss of wages payable to employees under section 21, rent and equipment of offices, purchase of books, stationery, and other supplies, printing and binding to be done at the Government Printing Office, and other necessary expenses.

³² This subsection was added by Act of December 22, 1944 (c. 644, 58 Stat. 887). By virtue of the Act of August 23, 1958 (72 Stat. 855) only the following language of said sec. 41 (33 U.S.C. 941) remains applicable to the FECA:

"The Secretary, in enforcing and administering the provisions of this section, is authorized in addition to such other powers and duties as are conferred upon him—

"(1) to make studies and investigations with respect to safety provisions and the causes and prevention of injuries in employments covered by this Act and from time to time make to Congress such recommendations as he may deem proper as to the best means of preventing such injuries, and in making such studies and investigations to cooperate with any agency of the United States or with any State agency engaged in similar work;"

³³ This subsection was added by Act of October 14, 1949 (c. 691, 63 Stat. 865).

³⁴ Executed.

EMPLOYEES' COMPENSATION FUND

SEC. 35.³⁵ (a) There is established in the Treasury a separate fund to be known as the Employees' Compensation Fund which shall consist of such sums as Congress may from time to time appropriate therefor or transfer thereto and amounts otherwise accruing thereto under this or any other Act of Congress. Such fund including all additions that may be made to it shall be available without time limit for the payment of the compensation and other benefits and expenses (except administrative expenses) authorized by this Act or any extension or application thereof except as may be provided by this or other Acts. The Secretary of Labor shall submit annually to the Bureau of the Budget estimates of appropriations necessary for the maintenance of the Employees' Compensation Fund.

(b) The Secretary of Labor shall, prior to August 15 of each year, furnish to each executive department and each agency or instrumentality of the United States or other establishment, having employees who are or may be entitled to compensation benefits under this Act or any extension or application thereof (hereinafter called 'agency'), a statement showing the total cost of benefits and other payments made from the Employees' Compensation Fund during the preceding fiscal year on account of the injury or death of employees or persons under the jurisdiction of such agency occurring after December 1, 1960. Each agency shall include in its annual budget estimates for the next fiscal year a request for an appropriation in an amount equal to such costs. Sums appropriated pursuant to such request shall, within thirty days after they become available, be deposited in the Treasury to the credit of the Employees' Compensation Fund. In the case of any corporation or other agency which is not dependent upon an annual appropriation, the deposit to the credit of the Employees' Compensation Fund required by this subsection shall be made by such agency from funds under its control. If any agency or part thereof or any of its functions is transferred to another agency, the cost of compensation benefits and other expenses paid from the Employees' Compensation Fund on account of the injury or death of employees of the transferred agency or function shall be included in costs of the receiving agency.

(c) In addition to the contributions for the maintenance of the Employees' Compensation Fund required by this section, any mixed ownership corporation as defined in section 201 of the Government Corporation Control Act (31 U.S.C. 856), or any corporation or agency (or activity thereof) which is required by law to submit an annual budget pursuant to, or as provided by, the Government Corporation Control Act (31 U.S.C. 841-869), shall pay an additional amount for its fair share of the cost of administration of this Act as determined by the Secretary of Labor. With respect to said agencies, the charges billed by the Secretary of Labor pursuant to this section shall include an additional amount for such costs, which shall be paid into the Treasury as miscellaneous receipts from the sources authorized, and in the manner otherwise provided in this section.

³⁵ Amended and completely revised September 13, 1960 (74 Stat. 909).

FINDINGS AND AWARDS

SEC. 36.³⁶ The Secretary, upon consideration of the claim presented by the beneficiary, and the report furnished by the immediate superior and the completion of such investigation as he may deem necessary, shall determine and make a finding of facts thereon and make an award for or against payment of the compensation provided for in this Act. Compensation when awarded shall be paid from the employees' compensation fund.

REVIEW

SEC. 37.³⁷ That if the original claim for compensation has been made within the time specified in section 20, the Secretary may, at any time, on his own motion or on application, review the award, and, in accordance with the facts found on such review, may end, diminish, or increase the compensation previously awarded, or, if compensation has been refused or discontinued, award compensation. In the absence of fraud or mistake in mathematical calculations, the finding of facts in, and the decision of the Secretary upon, the merits of any claim presented under or authorized by this act, if supported by competent evidence, shall not be subject to review by any other administrative or accounting officer, employee, or agent of the United States. Any award heretofore made by the Compensation Commission, under the Act of September 7, 1916, for disability or death resulting from a personal injury sustained prior to June 5, 1924, shall be valid, if such award would be valid if made in respect to an injury sustained thereafter.

OVERPAYMENTS

SEC. 38.³⁸ (a) Subject to the provisions of sections 36 and 37, whenever by reason of an error of fact or law an overpayment has been made to an individual under this Act, proper adjustments shall be made, under regulations prescribed by the Secretary, by decreasing subsequent payments to which such individual is entitled. If such individual dies before such adjustment has been completed, adjustment shall be made by decreasing subsequent benefits, if any, payable under this Act with respect to such individual's death.

(b) There shall be no adjustment or recovery by the United States in any case where incorrect payment has been made to an individual who is without fault and where adjustment or recovery would defeat the purpose of this Act or would be against equity and good conscience.

(c) No certifying or disbursing officer shall be held liable for any amount certified or paid by him to any person where the adjustment or recovery of such amount is waived under subsection (b), or where adjustment under subsection (a) is not completed prior to the death of all persons against whose benefits deductions are authorized.

³⁶ See note 5, *supra*.

³⁷ Amended June 5, 1924 (c. 261, 43 Stat. 380); the last sentence of sec. 37 added by the Act of June 5, 1924 validated awards theretofore made and was a transitional provision. The Commission referred to is the former United States Employees' Compensation Commission; see notes 1 and 5. Also see next to last sentence of sec. 42.

³⁸ Amended October 14, 1949 (c. 691, 63 Stat. 854).

FALSE STATEMENTS

SEC. 39.³⁹ That whoever makes, in any affidavit or report required under section 4 or in any claim for compensation, any statement, knowing it to be false, shall be guilty of perjury and shall be punished by a fine of not more than \$2,000, or by imprisonment for not more than one year, or by both such fine and imprisonment.

DEFINITIONS

SEC. 40.⁴⁰ That wherever used in this Act—

(a) The singular includes the plural and the masculine includes the feminine.

(b) The term "employee" includes (1) all civil officers and employees of all branches of the Government of the United States (including officers and employees of instrumentalities of the United States wholly owned by the United States, but excluding commissioned officers of the Regular Corps of the Public Health Service, commissioned officers in the Reserve Corps of the Public Health Service on active duty, and commissioned officers of the Coast and Geodetic Survey); (2) persons rendering personal services of a kind similar to those of civilian officers or employees of the United States to any department, independent establishment, or agency thereof (including instrumentalities of the United States wholly owned by it), without compensation or for nominal compensation, in any case in which acceptance or use of such services is authorized by an Act of Congress or in which provision is made by law for payment of the travel or other expenses of such person; and (3)⁴¹ persons, other than independent contractors and their employees, employed on the Menominee Indian Reservation in the State of Wisconsin, subsequent to September 7, 1916, in operations conducted pursuant to the Act entitled "An Act to authorize the cutting of timber, the manufacture and sale of lumber, and the preservation of the forests on the Menominee Indian Reservation in the State of Wisconsin", approved March 28, 1908, as amended, or any other Act relating to tribal timber and logging operations on the Menominee Reservation.

(c) The term "commission" shall be taken to refer to the former United States Employees' Compensation Commission.

(d) The term "physician" includes surgeons and osteopathic practitioners within the scope of their practice as defined by State law.

(e) The term "medical, surgical, and hospital services and supplies" includes services and supplies by osteopathic practitioners and hospitals within the scope of their practice as defined by State law.

³⁹ Amended October 14, 1949 (c. 691, 63 Stat. 854).

⁴⁰ Amended June 5, 1924 (c. 261, 43 Stat. 389); May 31, 1938 (c. 293, 52 Stat. 586); April 11, 1940 (c. 79, 54 Stat. 105); July 1, 1944 (c. 373, 58 Stat. 712); October 14, 1949 (c. 691, 63 Stat. 854); August 1, 1956 (c. 837, 70 Stat. 883); August 8, 1958 (72 Stat. 539); September 13, 1960 (74 Stat. 908). For effective date of the 1949 Amendments to the word "employee," see section 303(f)(1) of the Act of October 14, 1949 set forth in Part II, *infra*. The amendment of August 1, 1956 removed Public Health Service officers, see Part IV, A, *infra*. Amendment of August 8, 1958, see note 2 (effective date June 30, 1958), added subsections (j) to (m) and repealed several related statutes. The amendment of September 13, 1960 revised subsection (f).

⁴¹ By notice (26 F.R. 3726) of the Secretary of the Interior, published pursuant to the Act of June 17, 1954 (68 Stat. 250), effective midnight, April 30, 1961 Federal supervision of the Menominee Tribe was terminated.

(f) The term "monthly pay" shall be taken to refer to the monthly pay at the time of the injury, or the monthly pay at the time disability begins, or the monthly pay at the time compensable disability recurs, if such recurrence begins more than six months after the injured employee resumes regular full-time employment with the United States, whichever is greater, except when otherwise determined under section 6(d) with respect to any period.

(g) The term "injury" includes, in addition to injury by accident, any disease proximately caused by the employment.

(h) The term "compensation" includes the money allowance payable to an employee or his dependents and any other benefits paid for out of the compensation fund: *Provided, however*, That this shall not in any way reduce the amount of the monthly compensation payable in case of disability or death.

(i) The term "Secretary" means the Secretary of Labor.

(j) The term "war-risk hazard" means any hazard arising during a war in which the United States is engaged; during an armed conflict in which the United States is engaged, whether or not war has been declared; or during a war or armed conflict between military forces of any origin, occurring within any country in which a person covered by this Act is serving; from—

(1) the discharge of any missile (including liquids and gas) or the use of any weapon, explosive, or other noxious thing by a hostile force or person or in combating an attack or an imagined attack by a hostile force or person; or

(2) action of a hostile force or person, including rebellion or insurrection against the United States or any of its allies; or

(3) the discharge or explosion of munitions intended for use in connection with a war or armed conflict with a hostile force or person as defined herein; or

(4) the collision of vessels on convoy or the operation of vessels or aircraft without running lights or without other customary peacetime aids to navigation; or

(5) the operation of vessels or aircraft in a zone of hostilities or engaged in war activities.

(k) The term "hostile force or person" means any nation, any subject of a foreign nation, or any other person serving a foreign nation

(1) engaged in a war against the United States or any of its allies,

(2) engaged in armed conflict, whether or not war has been declared, against the United States or any of its allies, or

(3) engaged in a war or armed conflict between military forces of any origin in any country in which a person covered by this Act is serving.

(l) The term "allies" means any nation with which the United States is engaged in a common military effort or with which the United States has entered into a common defensive military alliance.

(m) The term "war activities" includes activities directly relating to military operation.

REPEAL—LIABILITY OF THE PANAMA CANAL CO.

SEC. 41.⁴² That all acts or parts of acts inconsistent with this Act are hereby repealed: *Provided, however*, That for injuries occurring prior to the passage of this Act compensation shall be paid under the law in force at the time of the passage of this Act: *And provided further*, That if an injury or death for which compensation is payable under this act is caused under circumstances creating a legal liability in the Panama Canal Company to pay damages therefor under the laws of any State, Territory, or possession of the United States or of the District of Columbia or of any foreign country, no compensation shall be payable until the person entitled to compensation releases to the Panama Canal Company any right of action which he may have to enforce such liability of the Panama Canal Company, or until he assigns to the United States any right which he may have to share in any money or other property received in satisfaction of such liability of the Panama Canal Company.

ADMINISTRATION FOR CANAL ZONE AND ALASKA RAILWAYS

SEC. 42.⁴³ That the President may, from time to time, transfer the administration of this Act so far as employees of the Canal Zone Government and of the Panama Canal Company are concerned to the Governor of the Canal Zone, and so far as employees of the Alaska Railroad are concerned to the general manager of the Alaska Railroad, in which cases the words "Secretary" and "his" wherever they appear in this Act shall, so far as necessary to give effect to such transfer, be read, "Governor of the Canal Zone" or "the general manager of the Alaska Railroad," as the case may be, and "his"; and the expenses of medical examinations under sections 21 and 22, and the reasonable traveling and other expenses and loss of wages payable to employees under section 21, shall be paid out of appropriations for the Canal Zone Government or for the Alaska Railroad or out of funds of the

⁴² The Panama Railroad Co. was incorporated by Act of June 29, 1948 (c. 706, 62 Stat. 1075). Sec. 2 of such Act provided, in part, as follows: "The corporation shall reimburse * * * the Employees' Compensation Fund, Bureau of Employees' Compensation, Federal Security Agency, for the benefit payments made to the corporation's employees * * *." The Panama Railroad Co. was redesignated Panama Canal Company by Act of September 26, 1950 (c. 1049, 64 Stat. 1038). See notes 1 and 5, *supra*, and last sentence of note 43, *infra*.

⁴³ Amended April 6, 1938 (c. 79, 52 Stat. 200); July 29, 1942 (c. 533, 56 Stat. 725); July 28, 1945 (c. 328, 59 Stat. 503); September 13, 1960 (74 Stat. 910); 5 U.S.C. 793. See also notes 1, 5, and 31. (Note—First paragraph of this section as it relates to the Alaska Railroad is duplicated by the Act of March 4, 1925 (c. 561, 43 Stat. 1356). The amendment of July 29, 1942, added next to last paragraph. The amendment of July 28, 1945, added last paragraph. The amendment of September 13, 1960 deleted from the fourth paragraph a reference which by the last sentence therein, made the provisions of that paragraph applicable to certain citizens of Puerto Rico. By Executive Order 9804 dated November 21, 1946, the President revoked Executive Orders 2463 and 4181 and placed the administration of the Act with respect to employees of the Alaska Railroad in the Federal Security Agency. Said function was subsequently transferred to the Department of Labor in 1950, see notes 1 and 5 and p. 59. By Executive Order 2455 of September 15, 1916, the administration of the Act with respect to employees of the Panama Canal and the Panama Railroad was transferred to the Governor of the Panama Canal. The Panama Railroad as it existed in 1916 was not the Panama Railroad referred to in note 42. (Note—By Act of September 26, 1950 (c. 1049, 64 Stat. 1038), the Panama Canal was redesignated as the Canal Zone Government, the Panama Railroad Company as the Panama Canal Company, *supra* note 42, and the Governor of the Panama Canal as Governor of the Canal Zone.)

Panama Canal Company, as the case may be, instead out of appropriations for the work of the Secretary.

In the case of compensation to employees of the Canal Zone Government or of the Panama Canal Company for temporary disability, either total or partial, the President may authorize the Governor of the Canal Zone to waive, at his discretion, the making of the claim required by section 18. In the case of alien employees of the Canal Zone Government or of the Panama Canal Company, or of any class or classes of them, the President may remove or modify the minimum limit established by section 6 on the monthly compensation for disability and the minimum limit established by clause (K) of section 10 on the monthly pay on which death compensation is to be computed. The President may authorize the Governor of the Canal Zone and the general manager of the Alaska Railroad to pay the compensation provided by this Act, including the medical, surgical, and hospital services and supplies provided by section 9 and the transportation and burial expenses provided by sections 9 and 11, out of the appropriation for the Canal Zone Government and for the Alaska Railroad, such appropriations to be reimbursed for such payments by the transfer of funds from the employee's compensation fund.

APPEALS FROM DECISION OF GENERAL MANAGER, ALASKA RAILROAD

The transfer by the President of the administration of this Act so far as the employees of the Alaska Railroad are concerned to the general manager of the Alaska Railroad shall not divest the Secretary of jurisdiction hereunder, and any claimant shall have the right of appeal from the decision of the general manager of the Alaska Railroad to the Secretary, and the Secretary shall, upon such appeal, and may at any time, on his own motion, review the decision of the general manager of the Alaska Railroad, and in accordance with the facts found on such review may proceed as provided in section 37 hereof. The Secretary shall provide the form and manner of taking such appeals.

REMOVAL OF MINIMUM LIMITS ON MONTHLY COMPENSATION IN CASES OUTSIDE OF THE UNITED STATES: PROVISION FOR LOCAL PAYMENTS

The minimum limit on the monthly compensation for disability as established by section 6 and the minimum limit on the monthly pay on which death compensation is to be computed as established by clause (K) of section 10, shall not apply in the case of employees of the United States who are not citizens of the United States, or of any class or classes of such noncitizen employees, who sustain injury outside of the United States: *Provided*, That the Secretary may in his discretion establish a minimum monthly pay on which death compensation shall be computed in the case of any class or classes of such noncitizen employees. The Secretary is further authorized, in his discretion, to arrange and provide for the making of initial payments of compensation and the initial furnishing of other benefits provided in this Act in the cases of employees injured outside of the United States, by any officer or agent of the United States designated by the Secretary for such

purpose in the locality in which the employee was employed or the injury occurred.

Whenever the Secretary shall find that the amount of compensation, as provided by other provisions of this Act, payable to employees of the United States who are neither citizens nor residents of the United States, any Territory, or Canada, or payable to any dependents of such employees, is substantially disproportionate to compensation for disability or death which may be payable in similar cases under local law, regulations, custom, or otherwise, at the place outside the United States, any Territory, or Canada, where such employees may be working at the time of injury, the Secretary may provide for payment of compensation upon such basis as will be reasonably in accord with prevailing local payments in similar cases (1) by the adoption or adaptation of the substantive features (by a schedule or otherwise) of local workmen's compensation provisions, or other local law, regulation or custom applicable in cases of personal injury or death, or (2) by establishing and promulgating, for specific classes of employees, areas or places, special schedules of compensation for injury and death (including schedules for the loss or loss of use of members and functions of the body); and irrespective of the basis adopted may at any time modify or limit therein (a) the maximum monthly and total aggregate payments for injury and death (including modification and limitation of medical or other benefits), and (b) the percentages of the employee's wage payable as compensation for such injury or death, and to modify, limit, or redesignate the class or classes of beneficiaries entitled to death benefits, including the designation of persons, representative, or groups, who would be entitled under local law or customs to payment on account of death, whether or not included in the classes of beneficiaries otherwise specified in this Act. In the cases of such noncitizens and nonresidents, the Secretary or his designees are authorized to make lump-sum awards (in the manner prescribed by section 14 of this Act), whenever the Secretary or his authorized designee shall deem such settlement to be for the best interest of the United States, and also in any such cases to compromise and pay claims for any benefits so provided for, including claims in which there is a dispute as to jurisdiction or other facts, or questions of law. Compensation so payable shall be in lieu of all other compensation from the United States for the same injury or death, and any payment so made shall for all purposes be considered as compensation under this Act and as satisfaction of all liability of the United States in respect to the particular injury or death. The Secretary may delegate to any officer, agency, or employee of the United States, with such limitations and right of review as he deems advisable, authority to process, adjudicate, commute by lump-sum award, compromise, and pay any claim or class of claims for compensation, and to provide other benefits, locally, under this paragraph in accordance with such regulations and instructions as the Secretary shall deem necessary, and for such purpose the Secretary is authorized to provide or transfer funds (including reimbursement of amounts paid under this Act). Should the Secretary find (1) that conditions prevent the establishment of facilities for processing and adjudicating claims of such noncitizens and nonresidents, or (2) that such noncitizens and nonresidents are alien enemies, the Secretary may waive the application of this Act, in whole or in part, and for such period or pe-

riods of time as the Secretary shall fix. The provisions of this paragraph may be applied retrospectively as the Secretary may determine and, where necessary, with such adjustment of compensation and benefits as the Secretary or his designees in allowing or denying any payment under this Act shall be final and conclusive for all purposes and with respect to all questions of law and fact, and not subject to review by any other official of the United States or by any court by mandamus or otherwise and credit shall be allowed in the accounts of any certifying or disbursing officer for payments in accordance with such action. Whenever used in this section, the geographical reference to the United States shall mean the continental United States.

SHORT TITLE

SEC. 43.⁴⁴ This Act may be cited as the "Federal Employees' Compensation Act."

Act Approved September 7, 1916.

I. FEDERAL EMPLOYEES' COMPENSATION ACT AMENDMENTS OF 1960

The Act of September 13, 1960, Public Law 86-767, Eighty-sixth Congress (74 Stat. 906), in addition to making specific changes to certain sections of the Act of September 7, 1916, as amended, contained supplementary general provisions as follows:

INCREASE OF COMPENSATION BASE WHERE INJURY OCCURRED BEFORE
JANUARY 1, 1958

SEC. 104.⁴⁵ Notwithstanding any other provision of this Act or the Federal Employees' Compensation Act, the monthly pay upon the basis of which compensation for disability or death is computed under the Federal Employees' Compensation Act shall be increased as follows: If such employee's injury (or injury causing death) occurred before January 1, 1958, but after December 31, 1950, such eligible employee's "monthly pay" shall be increased by 10 percent: if such employee's injury (or injury causing death) occurred before January 1, 1951, but after December 31, 1945, such eligible employee's "monthly pay" shall be increased by 20 percent: if such employee's injury (or injury causing death) occurred before January 1, 1946, such eligible employee's "monthly pay" shall be increased by 30 percent: *Provided*, That nothing in this or any other Act of Congress shall be construed to make the increase in the monthly pay provided by this section applicable to military personnel, or to any person or employee not within the definition of section 40(b) (1) or (2) of the Federal Employees' Compensation Act, except that this section shall apply to employees of the government of the District of Columbia other than members of the police and fire departments who are pensioned or pensionable under the provisions of the Policemen and Firemen's Retirement and Disability Act: *Provided further*, That this section shall not be con-

⁴⁴ Section added by Amendment of October 14, 1949 (c. 691, 63 Stat. 854).

⁴⁵ Act of October 3, 1961 (75 Stat. 751), made this section applicable to employees of the District of Columbia, effective October 1, 1960.

strued to permit the amount of compensation on account of an employee's disability or death to be increased more than 10 percent if such injury (or injury causing death) occurred before January 1, 1958, but after December 31, 1950, nor more than 20 percent if such injury (or injury causing death) occurred before January 1, 1951, but after December 31, 1945, nor more than 30 percent if such injury (or injury causing death) occurred prior to January 1, 1946.

EFFECTIVE OPERATION

SEC. 211. (a) Except as otherwise provided by this section or in this Act, titles I and II of this Act shall take effect on the date of enactment of this Act and be applicable to any injury or death occurring after such date.

(b) The amendments made by sections 101, 102, 201, 203, 204, 208, and 210 of this Act to sections 5(a), 6(b)(1), 6(b)(2), 6(c), 9(a), 10(k), 13(b), 40(f), and 42 of the Federal Employees' Compensation Act shall be applicable to cases of injury or death occurring before the date of enactment of this Act only with respect to any period beginning on or after the first day of the first calendar month following the date of enactment of this Act.

(c) The amendments made by sections 104 and 105⁴⁵ of this Act shall be applicable to cases of injury or death occurring before enactment of this Act only with respect to any period beginning on or after the first day of the first calendar month following the date of enactment of this Act.

(d) The amendment made by section 202 of this Act to section 7(a) of the Federal Employees' Compensation Act permitting the payment of compensation for scheduled permanent disabilities in addition to benefits under the Civil Service Retirement Act shall be applicable to any injury which occurred within three years prior to the date of enactment of this Act as well as to any injury occurring on or after the date of enactment of this Act.

(3) The amendment made by section 202 of this Act to section 7(a) of the Federal Employees' Compensation Act requiring an election of benefits in any case in which a claimant for compensation is also eligible to receive certain payments or benefits from the United States for the same disability or death shall be applicable to any injury or death occurring before, on, or after the date of enactment of this Act but shall not deprive any person of any benefits awarded prior to the date of enactment of this Act.

II. FEDERAL EMPLOYEES' COMPENSATION ACT AMENDMENTS OF 1949

The Act of October 14, 1949, Public Law 357, Eighty-first Congress (c. 691, 63 Stat. 854), in addition to making specific changes in sections 2 through 43 of the Act of September 7, 1916, as amended, contained supplemental general provisions as follows:

⁴⁵ Section 105 amended the Act of February 15, 1934 extending the Federal Employees' Compensation Act's provisions to employees of Federal Civil Works Administration by changing \$100 in clause (a) to \$150, and \$75 in clause (b) to \$150 (c. 13, 48 Stat. 351). See p. 52.

INCREASE OF COMPUTATION BASE WHERE INJURY OCCURRED BEFORE
JULY 1, 1946

SEC. 109.⁴⁶ Notwithstanding any other provision of this Act or of the Federal Employees' Compensation Act, the monthly pay upon the basis of which compensation for disability or death is computed under the Federal Employees' Compensation Act, as amended, shall, effective on the first day of the first calendar month following enactment of this Act, be increased by 40 per centum if the injury (or injury causing death) occurred before May 1, 1943, in the cases of persons employed in the postal service whose compensation was affected by the Act of April 9, 1943 (57 Stat. 59), or before January 1, 1941, in all other cases, or by 10 per centum if the injury (or injury causing death) occurred on or after such date but before July 1, 1946, except that such increase shall in no event exceed \$50. This section shall apply to any case of death caused by such an injury, regardless of whether such death occurs or occurred before or after the enactment of this Act.

EXTENSION OF TIME LIMITATIONS

SEC. 301.⁴⁷ (a) Where an individual with respect to whose disability or death compensation is claimed under the Federal Employees' Compensation Act, as amended, was injured or died outside the United States on or after December 7, 1941, and before August 11, 1946, the time limitations of such Act with respect to the giving of notice of injury and the filing of a claim for compensation shall not begin to run until the date of enactment of this Act.

(b) As used in this subsection, the term "United States" includes only the States, Alaska, Hawaii, Puerto Rico, the Virgin Islands, and the Canal Zone.

COMPROMISE SETTLEMENTS—PRIVATE ACTS

SEC. 302.⁴⁸ The provisions of this Act shall not be construed to authorize the payment of any compensation under the Federal Employees' Compensation Act in any case where, pursuant to private relief legislation, a beneficiary of such legislation has accepted payment of a grant in satisfaction of the liability of the United States (or its corporation, agency, or other instrumentality) in such case, or where such liability has been compromised and settled, or other satisfaction received, as the result of any action sounding in tort or under maritime law, or where a lump sum has been received under section 14 of the Federal Employees' Compensation Act and the lump-sum award is not modified or set aside for other reasons.

EFFECTIVE OPERATION

SEC. 303. (a) Except as otherwise provided by this section or in this Act, titles I and II of this Act shall take effect on the date of enactment of this Act and be applicable to any injury or death occurring before or after such date.

⁴⁶ C. 691, 63 Stat. 861.

⁴⁷ C. 691, 63 Stat. 866.

⁴⁸ C. 691, 63 Stat. 866.

(b) The amendments made by section 101 of this Act to sections 2 and 8 of the Federal Employees' Compensation Act shall not apply to any period of disability commencing before the enactment of this Act.

(c) The amendments made by sections 102, 103, 105, and 106 of this Act to sections 3, 4(a), 6, 10, and 39 of the Federal Employees' Compensation Act shall be applicable to cases of injury or death occurring before enactment of this Act only with respect to any period beginning on or after the first day of the first calendar month following the enactment of this Act.

(d) (1) The amendments made by section 104 of this Act to section 5 of the Federal Employees' Compensation Act, establishing special provisions for permanent disability involving the loss, or loss of use, of a member or function of the body, shall (A) in cases within the purview of section 5(b) or in cases of disfigurement apply retroactively to any case where the injury occurred on or after January 1, 1940, and (B) in other cases, apply retroactively to injuries which occurred within one year prior to the enactment of this Act: *Provided*, That where the injury occurred before such enactment, except in cases specified in subsection (b) of section 5 of such Act, as so amended, the injured employee shall not be entitled to compensation under the schedule unless within one year after such date of enactment he elects to receive compensation under the schedule if so entitled: *Provided further*, That in the event of such election, all amounts theretofore paid on the basis of loss of wage-earning capacity as compensation for permanent disability involving a loss, or loss of use, of a member or function, or disfigurement, as specified in the schedule shall be credited against any compensation awarded by reason of such amendment: *And provided further*, That any award made under the provisions of this subsection shall be payable prospectively in the same manner as though the injury occurred after the enactment of this Act.

(2) No payment upon death pursuant to section 5(d) of the Federal Employees' Compensation Act, as amended by this Act, shall be made unless death occurs after such enactment. In the event of such death, the election required by paragraph (1) of this subsection shall be deemed to have been made.

(e) Section 107 of this Act, amending section 11 of the Federal Employees' Compensation Act, shall apply only to deaths occurring after the enactment of this Act.

(f) (1) The amendments made by section 108 of this Act to the definition of the term "employee" contained in section 40 of the Federal Employees' Compensation Act shall, as to any case of injury or death occurring before the date of enactment of this Act, apply only to injuries or deaths occurring on or after December 7, 1941, and compensation (including medical or other benefits) in any such case shall not be paid for any period earlier than the first day of the first month following enactment of this Act and, in cases of disability caused by such an injury, shall be limited to compensation for permanent partial or permanent total disability.

(2) The time limitations of the Federal Employees' Compensation Act with respect to the giving of notice of injury and the filing of a claim for compensation, in any case brought within the purview

of section 40 of such Act by this Act, shall not begin to run until the date of enactment of this Act.

(g) The amendment made by section 201 of this Act to section 7 of the Federal Employees' Compensation Act, making the remedy and liability under such Act exclusive except as to masters or members of the crew of any vessel, shall apply to any case of injury or death occurring prior to the date of enactment of this Act: *Provided, however,* That any person who has commenced a civil action or an action in admiralty with respect to such injury or death prior to such date, shall have the right at his election to continue such action notwithstanding any provision of this Act to the contrary, or to discontinue such action within six months after such date before final judgment and file claim for compensation under the Federal Employees' Compensation Act, as amended, within the time limited by sections 15 to 20 of such Act (including any extension of such time limitations by any provision of this Act), or within one year after enactment of this Act, whichever is later. If any such action is not discontinued and is decided adversely to the claimant on the ground that the remedy or liability under the Federal Employees' Compensation Act is exclusive, or on jurisdictional grounds, or for insufficiency of the pleadings, the claimant shall, within the time limited by sections 15 to 20 of such Act (including any extension of such time limitations by any provision of this Act), or within one year after final determination of such cause, whichever is later, be entitled to file a claim under such Act.

(h) The amendments made by sections 203 and 204 of this Act to sections 12 and 13 of the Federal Employees' Compensation Act, pertaining to the determination of the employee's pay or his wage-earning capacity, may, in the interest of justice and in the discretion of the Secretary, be applied in any case, irrespective of the date of injury or death, so as to cause payments of compensation, with respect to any period not earlier than the first day of the first month after enactment of this Act, to be consistent with such amendments.

TIME LIMITATIONS NOT EXTENDED

SEC. 304.⁴⁹ Except as otherwise expressly provided, the enactment of this Act shall not suspend or defer the running of the time limitations of the Federal Employees' Compensation Act with respect to the giving of notice of injury and filing of a claim for compensation.

SEAMEN

SEC. 305. (a) Nothing contained in this Act shall be construed to affect the exclusion of certain seamen (as defined in the Act of March 24, 1943, ch. 26, 57 Stat. 45, as amended; 50 U.S.C., Appendix, sec. 1291) from the terms of the Federal Employees' Compensation Act, as provided by such Act of March 24, 1943, as amended.

(b) ⁵⁰ Nothing contained in this Act shall be construed to affect any maritime rights and remedies of a master or member of the crew of any vessel.

⁴⁹ C. 691, 63 Stat. 863.
⁵⁰ C. 691, 63 Stat. 868.

III. EXTENSIONS OF ACT OF SEPTEMBER 7, 1916, AS AMENDED

EMPLOYEES OF THE GOVERNMENT OF THE DISTRICT OF COLUMBIA

⁵¹ That all of the provisions of the Act of Congress approved September 7, 1916, entitled "An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes," are hereby extended to employees of the government of the District of Columbia so far as they may be applicable, except to those members of the police and fire departments of the District of Columbia who are pensioned or pensionable under the provisions of the District of Columbia Appropriation Act approved September 1, 1916. Such compensation as the Secretary may award to employees of the government of the District of Columbia shall be paid in the manner provided by law for the payment of the general expenses of the government of the District of Columbia. For carrying out the provisions of this section, there is appropriated \$5,000; and the Commissioners of the District of Columbia shall submit annually to Congress, through the Bureau of the Budget, estimates of appropriations necessary for the foregoing purpose.

EMPLOYEES OF THE TENNESSEE VALLEY AUTHORITY

⁵² Insofar as applicable, the benefits of the Act entitled "An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes," approved September 7, 1916, as amended, shall extend to persons given employment under the provisions of this Act.

EMPLOYEES OF THE VIRGIN ISLANDS CORPORATION

⁵³ The Corporation shall also after June 30, 1949, contribute to the Employees' Compensation Fund, on the basis of annual billings as determined by the Federal Security Administrator for the benefit payments made from such fund on account of the Corporation's employees. (This Act also provides for payment by the Corporation of the administrative costs.)

EMPLOYEES OF THE PUBLIC HOUSING ADMINISTRATION

⁵⁴ The benefits of the Act entitled "An Act to provide compensation for employees of United States suffering injuries while in the performance of their duties, and for other purposes" (39 Stat. 742), shall extend to officers and employees of the Administration.

⁵¹ Act of July 11, 1919 (c. 7, sec. 11, 41 Stat. 104), amended June 10, 1921 (c. 18, sec. 215, 42 Stat. 23; 5 U.S.C. 794). See notes 1 and 5, *supra*.

⁵² Act of May 18, 1933 (c. 32, sec. 3, 48 Stat. 59; 16 U.S.C. 831b).

⁵³ Act of June 30, 1949 (c. 285, sec. 7(c), 63 Stat. 350; 48 U.S.C. 1407f(c)). See section 35.

⁵⁴ Act of September 1, 1937 (c. 896, sec. 16(4), 50 Stat. 897; 42 U.S.C. 1416(4)).

EMPLOYEES OF THE SMALL BUSINESS ADMINISTRATION

⁵⁵ The Administrator shall contribute to the Employees' Compensation Fund, on the basis of annual billings as determined by the Secretary of Labor, for the benefit payments made from such fund on account of employees engaged in carrying out functions financed by the revolving fund established by section 4(c) of this Act (72 Stat. 385). (This Act also provides for payment by the Corporation of the administrative costs.)

EMPLOYEES OF THE SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

⁵⁶ The Corporation shall also contribute to the Employees' Compensation Fund, on the basis of annual billings as determined by the Secretary of Labor, for the benefit payments made from such fund on account of the Corporation's employees. (This Act also provides for payment by the Corporation of the administrative costs.)

EMPLOYEES OF THE DEVELOPMENT LOAN FUND

⁵⁷ The Fund shall also contribute at least quarterly from such appropriation or fund, to the Employees' Compensation Fund, the amount determined by the Secretary of Labor to be the full cost of the benefits and other payments made from such fund on account of injuries and deaths of its employees which may hereafter occur. (This Act also provides for payment by the Fund of the administrative costs.)

⁵⁸ FEDERAL EMPLOYEES INTERNATIONAL ORGANIZATION SERVICE ACT

SEC. 4(a) * * * Any employee serving under a Federal appointment not limited to one year or less who transfers to an international organization is entitled to the following, if the transfer is made with the consent of the head of his agency * * *:

* * * * *

(3) To retain coverage and all rights and benefits under the Federal Employees' Compensation Act, as amended, and for this purpose his employment with the international organization shall be deemed to be employment by the United States. However, in any case in which the injured employee, or his dependents in case of death, receives from the international organization any payment (including any allowance, gratuity, payment under an insurance policy for which the premium is wholly paid by that organization, or other benefit of any kind, on account of the same injury or death, the amount of such payments shall be credited against any benefits payable under

⁵⁵ Act of July 18, 1958 (72 Stat. 387; 15 U.S.C. 635(b)). See section 35. Section 4(c), 15 U.S.C. 633(c).

⁵⁶ Act of May 13, 1954 (c. 201, sec. 8, 68 Stat. 95; 33 U.S.C. 987(b)). See section 35.

⁵⁷ Act of June 30, 1958 (72 Stat. 265; 22 U.S.C. 1875 (d)). See section 35.

⁵⁸ Act of August 28, 1958 (72 Stat. 979, 980; 5 U.S.C. 2333(a)(3)).

the Federal Employees' Compensation Act as follows: (A) payments on account of injury or disability shall be credited against disability compensation payable to the injured employee; and (B) payments on account of death shall be credited against death compensation payable to dependents of the deceased employee * * *.

FEDERAL STUDENT NURSES—TERMINATION OF BENEFITS

The Act of March 4, 1944 (c. 83, 58 Stat. 111), which amended the Act of June 15, 1943 (c. 126, 57 Stat. 153), extended the benefits of the Federal Employees' Compensation Act, as amended, to student nurses in training at Federal hospitals for the Armed Forces, health agencies, and war industries. Under the provisions of section 10 of the Act of June 15, 1943, coverage terminated on the termination of hostilities of World War II, proclaimed at 12 o'clock noon on December 31, 1946, by Proc. No. 2714 (12 F.R. 1).

STUDENT NURSES, APPRENTICES, ETC.

By Act of August 4, 1947 (c. 452, 61 Stat. 727), the Federal Employees' Compensation Act was extended to student nurses, medical or dental interns, residents-in-training, student dieticians, student physical therapists, and student occupational therapists, assigned or attached to a hospital, clinic, or medical or dental laboratory operated by any department, agency, or instrumentality of the Federal Government, or by the District of Columbia, and any other student-employees, assigned or attached to any such hospital, clinic or laboratory primarily for training purposes, who may be designated by the head of such department, agency or instrumentality, or by the Commissioners of the District of Columbia, as the case may be, with the approval of the Civil Service Commission (5 U.S.C. 1053).

EMPLOYEES OF MIDSHIPMEN'S STORES, ETC., AT U.S. NAVAL ACADEMY

Subsequent to December 28, 1945, all employees of midshipmen's stores, tailor, cobbler and barber shops are deemed Government employees whether paid prior to December 28, 1945 from appropriated moneys or from receipts of the midshipmen's, tailor, cobbler, and barber shops.⁵⁹

Subsequent to August 5, 1939 all employees of the U.S. Naval Academy laundry are deemed Government employees whether paid from appropriated moneys or from receipts of the laundry.⁶⁰

⁵⁹ Paraphrased from c. 510, 59 Stat. 590; c. 593, 59 Stat. 660; c. 594, 59 Stat. 660. Omitted from the revision and recodification of title 19 U.S.C. (70A Stat. 1).

⁶⁰ Paraphrased from c. 448, 53 Stat. 1210. Omitted from the revision and recodification of title 10 U.S.C. (70A Stat. 1).

FEDERAL LAND BANK—TERMINATION OF BENEFITS

⁶¹ The Federal Employees' Compensation Act, as amended, shall not be applicable in respect to the injury, disability, or death of any employee of a Federal land bank, Federal intermediate credit bank, or bank for cooperatives unless such injury, disability, or death (or cause thereof) occurred before January 1, 1960.

PEACE CORPS VOLUNTEERS

⁶² Volunteers shall be deemed to be employees of the United States Government for the purposes of the Federal Employees' Compensation Act (39 Stat. 742), as amended. *Provided, however,* That entitlement to disability compensation payments under that Act shall commence on the day after the date of termination of service. For the purposes of that Act—

(1) volunteers shall be deemed to be receiving monthly pay at the lowest rate provided for grade 7 of the general schedule established by the Classification Act of 1949, as amended, and volunteer leaders (referred to in section 6 of this Act) shall be deemed to be receiving monthly pay at the lowest rate provided for grade 11 of such general schedule; and

(2) any injury suffered by a volunteer during any time when he is located abroad shall be deemed to have been sustained while in the performance of his duty and any disease contracted during such time shall be deemed to have been proximately caused by his employment, unless such injury or disease is caused by willful misconduct of the volunteer or by the volunteer's intention to bring about the injury or death of himself or of another, or unless intoxication of the injured volunteer is the proximate cause of the injury or death.

IV. MILITARY EXTENSIONS (INCLUDING R.O.T.C., C.A.P., AND P.H.S.)

MEMBERS OF RESERVE COMPONENTS, ARMY, NAVY, AIR FORCE, AND COAST GUARD

A. REPEAL OF COVERAGE

The extension of the Federal Employees' Compensation Act benefits to reservists of the Armed Forces was terminated effective on or after January 1, 1957 by Public Law 831, 81st Congress (c. 837, 70 Stat. 857, *et seq.*), approved August 1, 1956.⁶³ It also discontinued such coverage

⁶¹ Act of August 18, 1950 (73 Stat. 384, 388; 12 U.S.C. 610(c)).

⁶² Act of September 22, 1961 (sec. 5(d), 75 Stat. 613).

⁶³ Section 208 of the Act of August 1, 1956 (70 Stat. 866), provides, in part, that no person eligible for benefits under title II of said Act "by reason of any death occurring on or after January 1, 1957, shall be eligible by reason of such death . . . for any payments under the Federal Employees' Compensation Act." This provision, together with subsection 501(f) (70 Stat. 883), amending the Naval Reserve Act of 1938 (52 Stat. 811), and subsections 502(5) and 502(6) (70 Stat. 886), repealing the Acts of July 15, 1939 (53 Stat. 1042), and July 18, 1940 (54 Stat. 762), granting Federal Employees' Compensation Act coverage to Army and Air Force reservists and to certain reservists who suffered injury prior to July 15, 1939, operates to prevent payments of compensation under the Federal Employees' Compensation Act for death or disability of any member of a Reserve component occurring on or after January 1, 1957.

See note 75, *infra*, for temporary Coast Guard Reserve members.

for commissioned officers of the regular and reserve corps of the Public Health Service and commissioned officers of the Coast and Geodetic Survey ⁶⁴ by the amendment of section 40 of the Federal Employees' Compensation Act. The termination of coverage does not deprive any person of benefits such person was eligible to receive by reason of disability or death occurring prior to January 1, 1957.⁶⁵ Beneficiaries eligible for compensation for death occurring prior to January 1, 1957, may continue to receive benefits under the Federal Employees' Compensation Act or they can elect to receive benefits under Public Law 881. In the event they elect to receive benefits under Public Law 881, their right to future compensation under the Federal Employees' Compensation Act ceases and may not be reinstated.⁶⁶

Since the termination of coverage by Public Law 881 does not prevent payment of compensation for disability or death occurring prior to January 1, 1957, the following statutes pertaining to such coverage of members of the individual reserve components are set forth and, in addition, the former coverage provisions for various auxiliary crops.

OFFICERS AND ENLISTED RESERVE CORPS, ARMY
(INCLUDING AIR FORCE)

⁶⁷ The Act of July 15, 1939 (c. 284, 53 Stat. 1042; 5 U.S.C. 797), provided as follows:

"That if in time of peace any member of the Officers' Reserve Corps or of the Enlisted Reserve Corps of the Army is physically injured in line of duty (1) while on active duty, or (2) when engaged in authorized travel to and from such duty, or (3) when engaged in authorized training without pay, or dies as the result of such physical injury, he or his beneficiary shall be entitled to all the benefits prescribed by law for civil employees of the United States who are physically injured in line of duty or who died as a result thereof, and the United States Employees' Compensation Commission shall have jurisdiction in such cases and shall perform the same duties with reference thereto as in the cases of civil employees of the United States so injured: *Provided*, That the benefits shall accrue to any such member, or his beneficiary, whether the disability or death is the result of sickness or disease contracted in line of duty while on active duty when such sickness or disease is proximately caused by service on active duty: *Provided further*, That employees' compensation under this Act shall not be paid concurrently with active-duty pay or pension based upon military

⁶⁴ Section 501(c) (70 Stat. 883).

⁶⁵ Section 603(b) (70 Stat. 887) provides as follows: The amendment or repeal of any provision of law by this Act shall not operate to deprive any person of payments of the six-months' death gratuity or of any payments which such person would be eligible to receive, but for such amendment or repeal, by reason of the death or disability of any person occurring prior to January 1, 1957; nor shall the amendment or repeal of any such provision operate to deprive any person disabled prior to January 1, 1957, of any right or the continuation of benefits to which he would otherwise be entitled by reason of such disability except for such amendment or repeal.

⁶⁶ See section 206. Subsections (c), (d), and (e) set forth the limitations upon payment where there is more than one beneficiary and all the said beneficiaries do not apply for benefits under P.L. 881.

⁶⁷ Repealed, effective January 1, 1957 (c. 837, 70 Stat. 886). Coverage terminated for disability or death subsequent to January 1, 1957; see p. 36. See also notes 1 and 5, *supra*.

service, and in the event a person becomes eligible for the benefits of the United States Employees' Compensation Act and is also eligible for, or is in receipt of, a pension based upon military service, he shall elect which benefit to receive: *Provided further*, That authorized training without pay is defined as inactive-status training under written authorization by competent military authority covering a specific training assignment and prescribing a time limit: *Provided further*, That for the purpose of determining the benefits to which entitled under the provisions of this Act members of the Officers' Reserve Corps or of the Enlisted Reserve Corps of the Army physically injured when engaged in authorized training without pay will be held and considered as receiving the pay and allowances they would have received if in a pay status: *Provided further*, That Reserve Officers entitled to the benefits of the last proviso of section 5 of the Act of April 3, 1939 (Public, Numbered 18, Seventy-sixth Congress), shall not be entitled to the benefits of this Act: *And provided further*, That nothing herein shall be construed to authorize compensation benefits for any period prior to the approval of this Act.

The Act of August 7, 1946 (c. 796, sec. 3, 60 Stat. 893), defined the term "in time of peace," *supra*, to include the period after September 8, 1945 and prior to the first day on which the United States is, by the action of Congress or the President, or both, no longer engaged in any war in which the United States is engaged on August 7, 1946."

SAME (INCLUDING AIR FORCE)

Sections 2, 4, and 5 of the Act of June 20, 1949, Public Law 108, 81st Congress (c. 225, secs. 2, 4, 5, 63 Stat. 201), provided:

"SEC. 2. * * * That all officers, warrant officers, and enlisted men of the Army of the United States, or the Air Force of the United States, other than the officers and enlisted men of the Regular Army, or the Regular Air Force who—

"(1) if called or ordered into the active military service by the Federal Government for extended military service in excess of thirty days suffer disability or death in line of duty from disease while so employed; or

"(2) if called or ordered by the Federal Government to active military service or to perform active duty for training or inactive-duty training for any period of time, suffer disability or death in line of duty from injury while so employed,

shall be deemed to have been in the active military service during such period and shall be in all respects entitled to receive the same pensions, compensation, death gratuity, retirement pay, hospital benefits, and pay and allowances as are now or may hereafter be provided by law or regulation for officers and enlisted men of corresponding grades and length of service of the Regular Army or the Regular Air Force. * * *

"SEC. 4. The provisions of this Act shall be effective from August 14, 1945, but no back pay, pension, compensation, death gratuity, or retirement pay shall be held to have accrued as the result of the enact-

ment of this Act for any period prior to such date: *Provided*, That in the case of persons electing to receive the benefits of this Act, the amount of any monetary benefits received for any period subsequent to August 14, 1945, under any provisions of law providing benefits for disability or death incident to the service described in sections 1, 2, and 3 of this Act, shall be deducted from the monetary benefits provided for herein.

"SEC. 5. Nothing contained in this Act shall be construed to deprive any person of any benefits to which he was entitled prior to its enactment."

SAME; PROVISIONS APPLICABLE TO INJURIES BETWEEN FEBRUARY 28, 1925, AND JULY 15, 1939

The Act of July 18, 1940 (c. 633, 54 Stat. 762), provided:

"That where in time of peace any member of the Officers' Reserve Corps or of the Enlisted Reserve Corps of the Army was physically injured in line of duty (1) while on active duty, or (2) while engaged in authorized travel to and from such duty, or (3) while engaged in authorized training without pay, or dies or has died as the result of such physical injury, where such injury or death occurred between the dates of February 28, 1925, and July 15, 1939, both inclusive, when such injury or death results from an accident involving a military hazard such as flying in military aircraft, participation in military drills, target practice and tactical exercises, and in injury cases where such injury has resulted in permanent partial or permanent total disability, he or his beneficiary shall be entitled to all the benefits prescribed by law for civil employees of the United States who are physically injured in line of duty or who die as a result thereof, and the United States Employees' Compensation Commission shall have jurisdiction in such cases and shall perform the same duties with reference thereto as in the cases of civil employees of the United States so injured: *Provided*, That the benefits shall accrue to any such member, or his beneficiary, whether the disability or death is the result of sickness or disease contracted in line of duty while on active duty when such sickness or disease is proximately caused by service on active duty: *Provided further*, That employees' compensation under this Act shall not be paid concurrently with active-duty pay or pension based upon military service, and in the event a person becomes eligible for the benefits of the United States Employees' Compensation Act and is also eligible for, or is in receipt of, a pension based upon military service, he shall elect which benefit to receive: *Provided further*, That authorized training without pay is defined as inactive-status training under written authorization by competent military authority covering a specific training assignment and prescribing a time limit: *Provided further*, That for the purpose of determining benefits to which entitled under the provision of this Act members of the Officers' Reserve Corps or of the Enlisted Reserve Corps of the Army physically injured when engaged in authorized training without pay will be held and considered as receiving the pay and allowances they would have received if in a pay status: *And provided fur-*

then, That nothing herein shall be construed to authorize compensation benefits which may have accrued for any period prior to the approval of this Act, but eligibility for compensation benefits shall be determined as of the date of approval of this Act and any benefits payable shall date only from such approval and the eight-year period of limitation in section 10-G of the Federal Employees' Compensation Act of September 7, 1916, shall be computed for purposes of this Act, from the date of approval thereof.

"Where injury or death has been sustained by any member of the Officers' Reserve Corps or Enlisted Reserve Corps while performing authorized training without pay upon inactive status it shall be presumed that such training was being performed under written authorization of competent military authority covering a specific training assignment and prescribing a time limit and thus subject to the provision of this Act unless a duly appointed Examining Board, appointed at the time of said accident, has found and reported to the contrary.

"All claims for disability or death benefits allowed under the provisions of this Act shall be made within one year from its approval by the President."

NATIONAL GUARD OFFICERS ON ACTIVE DUTY

Based upon section 515(b) of the Officer Personnel Act of 1947 (c. 512, 61 Stat. 908, now 10 U.S.C. 3491, 8491), making officers of all Reserve components of the Army and Air Force eligible for compensation benefits, officers of the National Guard on extended active duty have been held entitled to compensation.

The Act of September 14, 1961, Public Law 87-234 (75 Stat. 507), provides:

"That sections 15 through 20, inclusive, of the Federal Employees' Compensation Act, as amended (U.S.C., title 5, secs. 765-770), are hereby waived with respect to cases involving those members of the Army National Guard and the Air National Guard of the United States alleged to have suffered disability or death from compensable causes which arose during the period from August 7, 1947, to December 31, 1956, inclusive, and their claims or the claims of their dependents for compensation by reason of the Act of July 15, 1939 (5 U.S.C. 797, 797a), are authorized and directed to be considered and acted upon under the remaining provisions of the Federal Employees' Compensation Act, as amended and extended to members of military reserve components, if filed with the Department of Labor (Bureau of Employees' Compensation) within one year from the date of enactment of this Act.

"Sec. 2. Notwithstanding the provisions of section 206(b) (1) of the Servicemen's and Veterans' Survivor Benefits Act any person whose rights may be affected by section 1 of this Act may receive any benefits to which he should be found eligible under the Federal Employees' Compensation Act provided he makes the election required under section 7 thereof. In the event of such an election, any benefit amounts received under any other Act for the same death shall be deducted from amounts payable for similar purposes under the Federal Employees' Compensation Act."

WOMEN'S ARMY AUXILIARY CORPS

Section 11 of the Act of May 14, 1942 (c. 312, sec. 11, 56 Stat. 280), provided:

"⁶⁸ If any member of the corps is physically injured or otherwise incapacitated in line of duty while on active duty, while engaged in authorized training without pay or while engaged in authorized travel with or without pay, or if any member dies as result of such physical injury or other incapacity, she or her beneficiary shall be entitled to all the benefits prescribed by law for civilian employees of the United States who are physically injured while in the performance of duty or who die as a result thereof, and the United States Employees' Compensation Commission shall have jurisdiction in such cases and shall perform the same duties with reference thereto as in the cases of other civilian employees of the United States so injured or otherwise incapacitated: *Provided*, That the benefits shall accrue to any such member or her beneficiary whether the disability or death is the result of sickness or disease contracted in line of duty, while on active duty, when such sickness or disease is proximately caused by service on active duty: *Provided further*, That employees' compensation under this Act shall not be paid concurrently with active-duty pay or pension based upon active service: *And provided further*, That for the purpose of determining the benefits to which they are entitled under the provisions of this Act, members of the corps physically injured or otherwise incapacitated when engaged in authorized training without pay will be held and considered as receiving the pay and allowances they would have received if in a pay status.

"The Secretary, under such regulations as he may prescribe, may authorize and require the hospitalization, medical and surgical treatment, and domiciliary care so long as any or all are necessary of members of the corps injured as hereinabove set out and the Secretary is authorized to incur obligations with respect thereto without reference to their line of duty status: *Provided*, That this shall not apply to members of the corps who are treated in private hospitals or by civilian physicians while on furloughs or leaves of absence in excess of twenty-four hours. Members of the corps who suffer injury or contract disease in line of duty while on active duty or while engaged in authorized training without pay shall, under such regulations as the Secretary may prescribe, be entitled at Government expense to such hospitalization, rehospitalization, medical and surgical care in hospital and at their homes as is necessary for the appropriate treatment of such injury or disease until discharged from service, released from active duty, or released from authorized training without pay and during such time the period of such hospitalization or rehospitalization, but not for more

⁶⁸ NOTE.—Effective the last day of the second calendar month following July 1, 1943, repeal of the Act of May 14, 1942, became effective, except sec. 11 above set forth. The Act of July 1, 1943 (c. 187, 57 Stat. 371), established a new Women's Army Corps; sec. 11, above set forth, was specifically not made applicable to members of the new Women's Army Corps. Effective July 1, 1948, the Act of May 14, 1942, was repealed by Public Law 239, 80th Cong., approved July 25, 1947 (c. 327, sec. 2(a), 61 Stat. 449). The Act of October 14, 1949 (c. 691, sec. 402, 63 Stat. 854) amended sec. 2(a) of Public Law 239 by striking out the semicolon at the end of the provision repealing the Act of July 1, 1943 (57 Stat. 371), and the Act of May 14, 1942 (56 Stat. 278), as amended, and inserting in lieu thereof a colon and the following proviso: "*Provided*, That section 11 of such Act of May 14, 1942, shall remain in effect to the extent specified in section 5 of such Act of July 1, 1943."

than an aggregate of six months after the termination of service if on active duty with pay, to the pay and allowances, whether in money or in kind, that they were entitled to receive at the time such injury was suffered or disease contracted and to the necessary transportation incident to such hospitalization, rehospitalization, and return to their homes when discharged from hospital and such pay and allowances shall be in lieu of monthly compensation payable under the first paragraph of this section, during the period covered thereby; and for any period of hospitalization or rehospitalization when they are not entitled to pay and allowances under the preceding provision they shall be entitled to subsistence at Government expense. In the event any member of the corps dies during her period of enlistment or appointment, the necessary expense for the recovery of the body, its preparation for burial, including the use of such of the uniform and articles of clothing issued to her as may be required, interment or cremation, and transportation of remains, including round-trip transportation and subsistence of an escort to her home or the place where she received orders or enrolled or was appointed, or to such other place as her relatives may designate provided the distance to such other place be not greater than the distance to her home, shall be paid by the United States: *Provided, further*, That if the death of the member occurs as a result of any injury in line of duty while on active duty, while engaged in authorized training without pay, or while engaged in authorized travel with or without pay, and while such member is entitled to receive the benefits of the Act of September 7, 1916, the funeral and burial expenses shall be provided by the United States Employees' Compensation Commission under the provisions of section 11 of the Act of September 7, 1916, as amended (5 U.S.C. 761), and in addition to the authority contained in that section, the Commission may embalm and transport the body, in a hermetically sealed casket if necessary, to the home of the member."

MEMBERS OF NAVAL RESERVE

The Act of June 25, 1958 (c. 690, 52 Stat. 1181), provided:

"⁶⁹ If in time of peace any member of the Naval Reserve is physically injured in the line of duty while performing active military or naval service, or dies as the result of such physical injury, he or his beneficiaries shall be entitled to all the benefits prescribed by law for civil employees of the United States who are physically injured in the line of duty or who die as a result thereof, and the United States Employees' Compensation Commission shall have jurisdiction in such cases and shall perform the same duties with reference thereto as in the cases of civil employees of the United States so disabled: *Provided*, That where a person who is eligible for the benefits prescribed by this section is also eligible for pension under the provisions of the Act of June 23, 1937, entitled "An Act to amend the provisions of the pension laws for peacetime service to include Reserve officers and members of the enlisted Reserves" (50 Stat. 305), he shall elect which benefit he shall receive,

⁶⁹ Amended August 7, 1946 (c. 796, sec. 1, 60 Stat. 802), by adding proviso beginning with words "That any member" effective retroactively to December 1, 1945.

See sec. 1, Public Law 108, 81st Cong., post p. 35, approved June 20, 1949 (63 Stat. 201), for its effect upon the Act of June 25, 1938.

and for the purposes of this section and of said Act all members of the Naval Reserve shall be considered as performing active military or naval service while performing active duty with or without pay, training duty with or without pay, drills, equivalent instruction or duty, appropriate duty, or other prescribed duty, or while performing authorized travel to or from such duties: *Provided further*, That for the purpose of determining the benefits to which entitled under the provisions of this section Naval Reservists so physically injured while performing the foregoing duties in a nonpay status will be held and considered as receiving the pay and allowance they would have received if in a pay status: *Provided further*, That Naval Reservists who become ill or contract disease in line of duty during the performance of active duty or training duty with or without pay shall be entitled, at Government expense, to such medical, hospital, or other treatment as is necessary for the appropriate treatment of such illness or disease until the disability resulting from such illness or disease cannot be materially improved by hospitalization or treatment, and to the necessary transportation and subsistence incident to such medical and hospital treatment and return to their homes when discharged therefrom: *Provided further*, That no treatment or hospitalization for such illness or disease shall be continued for more than ten weeks following discharge from active or training duty except on the approved recommendation of a board of medical survey, consisting of one or more medical officers of the Navy or on authorization of the Surgeon General of the Navy based on the certificate of a reputable physician that the illness or disease is a continuation of the illness or disease which was sustained or contracted during the period of active or training duty and that further benefit will result from continued treatment: *Provided further*,⁷⁰ That any member of the Naval Reserve performing active duty with or without pay for periods of thirty days or less, training duty with or without pay, drills, equivalent instruction or duty, appropriate duty, or prescribed duty, or while performing authorized travel to or from such duties, prior to the official termination of World War II, shall be entitled to all the benefits provided by this section to members of the Naval Reserve in time of peace: *And provided further*, That in no case shall sickness or disease be regarded as an injury within the meaning of this section relating to the Naval Reserve."

SAME; ELECTION OF BENEFITS

Section 1 of the Act of June 20, 1949, Public Law 108, 81st Cong. (c. 225, 63 Stat. 201), provided:

"* * * All officers, nurses, warrant officers, and enlisted men of the United States Naval Reserve or United States Marine Corps Reserve, who—

"(1) if called or ordered into active naval or military service by the Federal Government for extended naval or military service in excess of thirty days, suffer disability or death in line of duty from disease while so employed; or

"(2) if called or ordered by the Federal Government to active naval or military service or to perform active duty for training

⁷⁰ This proviso is added by the Act of August 7, 1946, cited to footnote 69. For retroactive date, see same footnote.

or inactive-duty training for any period of time, suffer disability or death in line of duty from injury while so employed;

shall be deemed to have been in the active naval service during such period, and they or their beneficiaries shall be in all respects entitled to receive the same pensions, compensation, death gratuity, retirement pay, hospital benefits, and pay and allowances as are now or may hereafter be provided by law or regulation for officers, warrant officers, nurses, and enlisted men of corresponding grades and length of service of the Regular Navy or Marine Corps: *Provided*, That if a person who is eligible for the benefits prescribed by this Act be also eligible for pension under the provisions of the Act of June 23, 1937 (50 Stat. 305), compensation from the Bureau of Employees' Compensation, Federal Security Agency, under the provisions of section 304 of the Naval Reserve Act of 1938 (52 Stat. 1181) or retired pay under the provision of section 310 of the Naval Reserve Act of 1938 (52 Stat. 1183), he shall elect which benefit he shall receive."

WOMEN'S RESERVE (NAVY)

The Act of June 25, 1938 (c. 690, title V, sec. 506, as added July 30, 1942, c. 538, 56 Stat. 730), provided:

"⁷¹ The benefits provided by section 4 of the Act approved August 27, 1940 (Public, Numbered 775, Seventy-sixth Congress), and by the Act approved March 17, 1941 (Public Law Numbered 16, Seventy-seventh Congress), shall not be applicable to members of the Women's Reserve who suffer disability or death in line of duty from disease or injury while employed on active duty: *Provided*, That if any member of the Women's Reserve suffers disability or death from disease or injury incurred in line of duty while employed on active duty, she or her beneficiaries shall be entitled to all the benefits prescribed by law for civil employees of the United States who are physically injured or who die as a result thereof."

COAST GUARD RESERVE AND AUXILIARY

REGULAR MEMBERS

The Act of May 19, 1941 (c. 8, title II, sec. 211, 55 Stat. 12), provided:

"⁷² Members of the Reserve, other than temporary members thereof, who suffer sickness, disease, disability, or death in line of duty shall

⁷¹ Effective July 30, 1942, benefits applicable to the Women's Reserve were made the same as for male officers and enlisted men by amendment of November 8, 1943 (c. 297, sec. 1, 57 Stat. 586).

By Act of June 12, 1948 (c. 440, sec. 212, 62 Stat. 368), the Women's Reserve was transferred to the Naval Reserve. Equal applicability of benefit provisions was retained; and a similar benefit provision was provided by Act of July 9, 1952 (c. 608, sec. 414, 66 Stat. 500). The Act of August 10, 1956 (c. 1041, 70A Stat. 641), in recodifying title 10 U.S.C., repealed the Acts of June 12, 1948 and July 9, 1952. As noted hereinbefore, death or disability of Naval Reserve Corps members occurring subsequent to January 1, 1957, are no longer covered by the Act of August 1, 1956, secs. 501(f), 603(b). (70 Stat. 883, 887).

⁷² See c. 303, 63 Stat. 551 revising 14 U.S.C. 755(c). The Act of August 1, 1956 (c. 837, 70 Stat. 857), affects Coast Guard reservists in the same fashion as Naval reservists. See note 71, *supra*.

be entitled to the same benefits as are or may hereafter be prescribed by law for members of the Naval Reserve who suffer sickness, disease, disability, or death under similar conditions."

TEMPORARY MEMBERS OF COAST GUARD RESERVE

⁷³ (a) In case of physical injury, or death resulting from physical injury, to any temporary member of the Reserve incurred incident to service while performing active Coast Guard duty, or engaged in authorized travel to or from such duty, the provisions of law authorizing compensation for employees of the United States suffering injuries while in the performance of their duties, subject to this section, shall apply, and shall be administered by the Secretary of Labor in the same manner and to the same extent as if such person were a civil employee of the United States and were injured in the performance of his duty. For benefit computation, regardless of pay or pay status, such person shall be deemed to have had monthly pay of \$300.

(b) This section shall not apply in any case coming within the purview of the Workmen's Compensation Law of any state, territory, or other jurisdiction because of a concurrent employment status of such temporary member; and where such temporary member or dependent would be entitled to a benefit under the provisions of law authorizing compensation for employees of the United States suffering injuries while in the performance of their duties and also to any concurrent benefit from the United States on account of the same disability or death, such temporary member or dependent shall elect which benefit he shall receive.

(c) Whenever, pursuant to this section, a claim is filed with the Secretary of Labor for benefits because of an alleged injury or death, the Secretary of Labor, or such officer, agency, or employee of the Department of Labor as he shall designate, shall notify the Commandant who shall cause an investigation to be made into the facts surrounding such alleged injury and make certification with respect thereto, including certification as to such injured or deceased person's temporary membership in the Reserve and his military status, and whether the injury or death occurred incident to service.

(d) Temporary members of the Reserve who incur physical disability or contract sickness or disease while performing any specific duty to which they have been assigned by competent Coast Guard authority shall be entitled to the same hospital treatment afforded officers and enlisted men of the Coast Guard.

(e) In administering the Federal Employees' Compensation Act for persons covered by this section—

⁷³ Section is based on the Act of February 19, 1941 (c. 8, 55 Stat. 12) as amended November 23, 1942 (c. 639, 56 Stat. 1021) and September 30, 1944 (c. 449, 58 Stat. 756). Title 14 U.S.C. was rewritten and reenacted in 1949 (c. 393, 63 Stat. 495; 14 U.S.C. 760). The revision removed that portion of the section (section 760) relating to the Coast Guard Auxiliary (see p. 46) and made minor changes in phraseology. A time limitation provision deemed obsolete was also deleted by the revision. Act of October 31, 1951 (c. 655, sec. 15, 65 Stat. 715) made minor changes relating to the Secretary of Labor. Subsection (e) was added by Act of August 3, 1956 (c. 926, sec. 2, 70 Stat. 981), which also amended subsection (a) by substituting \$300 for \$150.

NOTE.—Temporary members of the Coast Guard Reserve were not affected by the Act of August 1, 1956 (c. 837, 70 Stat. 857). See secs. 102 (2), 5, and 6(A).

(1) the percentages applicable to payments under section 10 of that Act are—

(A) 45 per centum for clause (C) of that section, in any case where the member died fully or currently insured under title II of the Social Security Act, with no additional payments for a child or children so long as the widow or widower remains eligible for payments under that clause;

(B) 20 per centum for clause (D) of that section, for one child, and 10 per centum additional for each additional child, but not more than a total of 75 per centum, in any case where the member died fully or currently insured under title II of the Social Security Act, and

(C) 25 per centum for clause (E) of that section, if one parent was wholly dependent for support upon the deceased member at the time of his death and the other was not dependent to any extent; 16 per centum to each if both were wholly dependent; and if one was, or both were partly dependent, a proportionate amount in the discretion of the Secretary of Labor.

(2) no payments may be made under clause (P) of that section; and

(3) the Secretary of Labor or his designee shall inform the Secretary of Health, Education, and Welfare whenever a claim is filed and eligibility for compensation is established under clause (C) or clause (D) of section 10 of that Act, and that Secretary shall then certify to the Secretary of Labor as to whether or not the member concerned was fully or currently insured under title II of the Social Security Act at the time of his death.

COAST GUARD AUXILIARY

The Act of February 19, 1941 (c. 8, title I, sec. 11, 55 Stat. 9), as added September 30, 1944 (c. 453, sec. 7, 58 Stat. 761); title 14 U.S.C. as rewritten and reenacted in 1949 (c. 393, 63 Stat. 495; 14 U.S.C. 832), provided:

"When any member of the Auxiliary is physically injured or dies as a result of physical injury incurred while performing any specific duty to which he has been assigned by competent Coast Guard authority, such member or his beneficiary shall be entitled to the same benefits provided for temporary members of the Reserve who suffer physical injury or death resulting from physical injury incurred incident to service. Members of the Auxiliary who incur physical injury or contract sickness or disease while performing any specific duty to which they have been assigned by competent Coast Guard authority shall be entitled to the same hospital treatment afforded officers and enlisted men of the Coast Guard."

WOMEN'S RESERVE (COAST GUARD)

The Act of February 19, 1941 (c. 8, title IV, 55 Stat. 9), as added November 23, 1942 (c. 639, sec. 1, 56 Stat. 1020; 14 U.S.C. 386), provided that the members of the Women's Reserve " * * * shall be en-

titled to the same benefits as are provided for temporary members of the Reserve * * *. This provision was modified to accord with the provisions affecting the Women's Reserve (Navy) by Act of November 8, 1943 (c. 297, sec. 1, 57 Stat. 586). The Act of November 23, 1942, was repealed by the Act of July 25, 1947 (c. 327, 61 Stat. 450). The revision and reenactment as law of title 14 U.S.C. by Act of August 4, 1949 (c. 393, sec. 762, 63 Stat. 554), provided for a permanent Women's Reserve as a branch of the Coast Guard Reserve. For benefits applicable to personnel of the Coast Guard Reserve, see p. 44, *supra*.

PUBLIC HEALTH SERVICE

Commissioned officers of the Public Health Service, regular and reserve (including their surviving beneficiaries), were first provided for and given entitlement to benefits under the Federal Employees' Compensation Act by the Public Health Service Act of 1943 (c. 298, sec. 9, 57 Stat. 589). The Public Health Service Act of 1943 was repealed by the Act of July 1, 1944 (c. 373, sec. 611, 58 Stat. 719). By section 605 of the Act of July 1, 1944 (c. 373, 58 Stat. 712), "commissioned officers of the Regular Corps of the Public Health Service, [and] officers in the Reserve of the Public Health Service on active duty" were included within the definition of "employee" in section 40 of the Federal Employees' Compensation Act. In addition to providing such benefits prospectively for such officers, section 605 (c) and (d) of the 1944 Act gave retrospective coverage as regards injuries and deaths which occurred after December 7, 1941. Subsection (c) was repealed; its contents appear in the footnote.⁷⁴ Subsection (d) remains in effect ⁷⁵ (5 U.S.C. 800), and provides as follows:

⁷⁴ Repealed effective July 25, 1948, by Act of July 25, 1947 (c. 327, 61 Stat. 449, 451), subsection (c) read as follows:

"In the case of injury or death of a commissioned officer of the Service occurring after November 10, 1943, and on or before the date of the termination of the present war, the election required by section 7 of such Act of September 7, 1916, as amended (U.S.C., 1940 edition, title 5, sec. 757), may be made, and the notice required by section 15 thereof and the written claim required by section 18 thereof may be filed, within such time as may be provided by regulations of the United States Employees' Compensation Commission, but not later than the expiration of one year following the termination of the present war. Prior to the expiration of such year any such election may be revised, and such revision shall operate retroactively to the date of death or injury, but there shall be deducted from the compensation or other benefit payable pursuant to a revised election any sum (except the proceeds of any insurance policy) theretofore paid on account of such death or injury."

The provisions of sections 9 and 10 of the Public Health Service Act of 1943, *supra*, relating to compensation for injury and death read as follows:

"Sec. 9. Commissioned officers of the Public Health Service, regular and reserve (including their surviving beneficiaries), shall be entitled to receive the same benefits for injury or death in the performance of their duties as civil officers and employees of the United States under the United States Employees' Compensation Act of September 7, 1916, as amended: *Provided*, That any such officer or beneficiary of such officer eligible to receive any benefit authorized by this section who is also eligible to receive any payment or benefit (except the proceeds of any insurance policy) under any provision of law other than such Act of September 7, 1916, as amended, on account of the same injury or death, shall elect which benefit he shall receive."

"Sec. 10. The surviving beneficiaries of any commissioned officer of the Public Health Service, regular or reserve, who since December 7, 1941, and prior to the enactment of this Act, has lost his life while on active duty in the Public Health Service or while detailed to the Army, Navy, or Coast Guard, shall receive six months' pay as provided in the Act of June 4, 1920, as amended (U.S.C., 1940 edition, sup. II, title 34, sec. 943), and unless entitled to compensation under the laws administered by the Veterans' Administration, shall receive the benefits provided under section 9 of this Act."

⁷⁵ The Act of September 3, 1954 (c. 1263, sec. 14, 68 Stat. 1231), amended subsection (d) to eliminate the second sentence relating to right of beneficiary to elect.

"(d) In the case of death of a commissioned officer of the Public Health Service which occurred after December 7, 1941, and prior to November 11, 1943 the rights provided to surviving beneficiaries by section 10 of the Public Health Service Act of 1943 shall continue notwithstanding the repeal of that Act."

By Act of August 1, 1956 (c. 837, 70 Stat. 883), effective January 1, 1957, commissioned officers of the Public Health Service, commissioned officers in the Reserve Corps of the Public Health Service on active duty, and commissioned officers of the Coast and Geodetic Survey were excluded from the definition of "employee", contained in section 40 of the Federal Employees' Compensation Act. For the effect of the Act of August 1, 1956, upon benefits for death or disability prior to January 1, 1957, see p. 36.

B. CONTINUED COVERAGE

RESERVE OFFICERS' TRAINING CORPS OF THE ARMY, NAVY AND AIR FORCE

⁷⁶Sec. 4 (a) The Federal Employees' Compensation Act (ch. 458, 39 Stat. 742), as amended (5 U.S.C. 751-793), applies in case of the disability or death of the following members of the Reserve Officers' Training Corps of the Army, Navy, and Air Force:

(1) Any member who suffers disability or death from an injury incurred in line of duty while engaged in flight instruction, under—

(A) section 40a of the Act of June 3, 1916 (ch. 134, 39 Stat. 191), as amended (10 U.S.C. 385);

(B) section 22(a) of the Act of March 4, 1925 (ch. 536, 43 Stat. 1276), as amended (34 U.S.C. 821(a)); or

^{76a}(C) section 3(a) of the Act of August 13, 1946 (ch. 962, 60 Stat. 1058), as amended (34 U.S.C. 1020b(a));

(2) Any member who suffers disability or death from an injury incurred in line of duty while performing authorized travel to or from, or while attending—

^{76b}(A) a training camp under section 47a of the Act of June 3, 1916 (ch. 134, 39 Stat. 192), as amended (10 U.S.C. 441);

(B) a cruise under section 22(a) of the Act of March 4, 1925 (ch. 536, 43 Stat. 1276), as amended (34 U.S.C. 821(a)); or

^{76c}(C) a cruise or camp prescribed by the Secretary of the Navy under section 6(a)1 of the Act of August 13, 1946 (ch. 962, 60 Stat. 1059), as amended (34 U.S.C. 1020e(a)1).

⁷⁶ Act of August 1, 1956 (c. 830, 70 Stat. 805; 5 U.S.C. 802).

^{76a} The Act of August 13, 1946 referred to above was repealed by Act of August 10, 1956 (c. 1041, sec. 53, 70A Stat. 641), and is now covered by 10 U.S.C. 6904, 6906.

^{76b} Section 47a of the Act of June 3, 1916 referred to above was repealed by Act of August 10, 1956 (c. 1041, sec. 53, 70A Stat. 641), and is now covered by 10 U.S.C. 4385 and 9385.

^{76c} Section 6(a)1 of the Act of August 13, 1946, referred to above was repealed by Act of August 10, 1956 (c. 1041, 70A Stat. 641), and is now covered by 10 U.S.C. 6904.

For the purposes of this section, an injury shall be considered to have been incurred in line of duty only if it is the proximate result of the performance of military training by the member concerned, or of his travel to or from that military training, during the periods of time indicated in (2). Any member who contracts a disease or illness which is the proximate result of the performance of training during the periods of time indicated in (2) shall be considered for the purposes of this section to have been injured in line of duty during that period.

(b) In computing the compensation payable under this section, the total compensation received by the injured or deceased person, as the case may be, in cash and kind, shall be considered to be \$150 per month. That sum shall be applied in lieu of any monthly pay considered to be required or authorized under section 6, 10, or 12 of the Federal Employees' Compensation Act.

(c) Subject to review by the Secretary of Labor, the Secretary of the military department concerned, under regulations to be prescribed by him, shall determine whether an injury, disease, or illness was sustained, or contracted, in line of duty and was the proximate result of the performance of military training by the member concerned, or of his travel to or from that military training.

(d) Any expenses incurred by a military department in providing hospitalization, medical and surgical care, necessary transportation incident to that hospitalization or medical and surgical care, or in connection with a funeral and burial on behalf of a person covered by subsection (a) shall be reimbursed by the Secretary of Labor out of the Employees' Compensation Fund in accordance with the provisions of the Federal Employees' Compensation Act. However, reimbursement shall not be made for any hospitalization or medical or surgical care provided a person while attending—

⁷⁷ (1) a training camp under section 47a of the Act of June 3, 1916 (ch. 134, 39 Stat. 192), as amended (10 U.S.C. 441);

(2) a cruise under section 22(a) of the Act of March 4, 1925 (ch. 536, 43 Stat. 1276), as amended (34 U.S.C. 821(a)); or

⁷⁸ (3) a cruise or camp prescribed by the Secretary of the Navy under section 6(a)1 of the Act of August 13, 1946 (ch. 962, 60 Stat. 1059), as amended (34 U.S.C. 1020e(a)1).

(e) Nothing in this section shall be construed to hinder the prompt action authorized by sections 26 and 27 of the Federal Employees' Compensation Act in any case involving the legal liability of a third party other than the United States, and the Secretary of the military department concerned shall cooperate fully with the Department of Labor in the prompt investigation and prosecution in those cases.

(f) Any person receiving disability benefits under this section may not receive those benefits after he enters upon active duty with the Armed Forces, but those benefits may be reinstated when the person is released from that active duty.

⁷⁷ See note 76b, *supra*.

⁷⁸ See note 76c, *supra*.

CIVIL AIR PATROL

⁷⁰ (a) Volunteer civilian members of Civil Air Patrol, except Civil Air Patrol Cadets, shall, for the purpose of administration of the Federal Employees' Compensation Act, be deemed to be civilian employees of the United States within the meaning of the term "employee" as defined in section 40 of that Act, and the provisions of that Act shall apply to them in all respects, subject to the remaining provisions of this section.

(b) In administering that Act for members covered by this section—

(1) the monthly pay of such a member shall, for the purpose of computing compensation for disability or death, be considered to be \$300;

(2) the percentages applicable to payments under section 10 of that Act are—

(A) 45 per centum for clause (C) of that section, in any case where the member died fully or currently insured under title II of the Social Security Act, with no additional payments for a child or children so long as the widow or widower remains eligible for payments under that clause;

(B) 20 per centum for clause (D) of that section, for one child and 10 per centum additional for each additional child, but not more than a total of 75 per centum, in any case where the member died fully or currently insured under title II of the Social Security Act; and

(C) 25 per centum for clause (E) of that section, if one parent was wholly dependent for support upon the deceased member at the time of his death and the other was not dependent to any extent; 16 per centum to each, if both were wholly dependent; and if one was, or both were, partly dependent, a proportionate amount in the discretion of the Secretary of Labor;

(3) no payments may be made under clause (F) of that section;

(4) the term "performance of duty", as used in that Act, means only active service, and travel to and from such service, rendered in performance or support of operational missions of the Civil Air Patrol, under direction of the Department of the Air Force, and under written authorization by competent authority covering a specific assignment and prescribing a time limit for such assignment; and

(5) the Secretary of Labor, or his designee, shall inform the Secretary of Health, Education, and Welfare whenever a claim is filed and eligibility for compensation is established under clause (C) or clause (D) of section 10 of that Act, and that Secretary shall then certify to the Secretary of Labor as to whether or not the member concerned was fully or currently insured under title II of the Social Security Act at the time of his death.

(c) When a claim is filed, the Secretary of Labor or his designee may inform the Secretary of the Air Force or his designee, who shall

⁷⁰ Act of May 26, 1948 (c. 349, 62 Stat. 274), as added August 3, 1956 (c. 926, 70 Stat. 980; 5 U.S.C. 803).

advise, if so requested, the Secretary of Labor concerning the facts with respect to the injury, including the question whether at the time of injury the member of the Patrol was rendering service, or engaged in travel to or from such service, in performance or support of an operational mission of the Patrol: *Provided*, That this shall not be construed to dispense with the reports of the member's immediate superior required under section 24, or other reports agreed upon under section 28a of that Act.

(d) The provisions of this section shall be applicable as of May 20, 1941, in the cases of members of the Civil Air Patrol as it existed under and pursuant to Executive Order 8757 of May 20, 1941, as amended by Executive Order 9134 of April 15, 1942, and Executive Order 9339 of April 29, 1943: *Provided*, That the time limitations in that Act, in respect to notice of injury and claim for compensation, shall not begin to run until the date of enactment of this Act: *Provided further*, That no benefits under that Act shall accrue or be payable in any case for any period prior to the date of this Act, but this provision shall not bar the payment or reimbursement of medical and other expenses as authorized by sections 9 and 11 of that Act, if not otherwise paid or furnished by the United States: *Provided further*, That, with respect to services rendered prior to the enactment of this Act, the term "performance of duty", as used in that Act, shall mean only active service, and travel to and from such service, rendered in performance or support of operational missions of the Civil Air Patrol, under direction of the Office of Civilian Defense, the Department of the Army (War), including the Army Air Forces, or the Department of the Air Force; *And provided further*, That the entitlement of any person to receive benefits from the United States under any other provision of law in effect prior to the date of enactment of this Act [August 3, 1956] for an injury or death for which benefits are authorized by this Act is hereby terminated.

V. EXTENSIONS OF ACT OF SEPTEMBER 7, 1916, WITH LIMITED BENEFIT PROVISIONS

CIVIL WORKS ADMINISTRATION

⁸⁰ That the provisions of the Act entitled "An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes", approved

⁸⁰ Act of February 15, 1934 (c. 13, 48 Stat. 351; 5 U.S.C. 796), as amended, October 14, 1949 (c. 691, 63 Stat. 854), and September 13, 1960 (sec. 105, 74 Stat. 907). For increase in benefits see subsequent acts under Emergency Relief Appropriations. (Note: Persons employed in useful public works, under the Act of March 31, 1933 (48 Stat. 22), were given compensation rights under sec. 3 thereof reading as follows: "Insofar as applicable, the benefits of the Act entitled 'An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes,' approved September 7, 1916, as amended, shall extend to persons given employment under the provisions of this Act.") The Act of February 15, 1934, limited maximum monthly compensation to \$25 and total aggregate payments to \$3500. The maximum monthly compensation was raised to \$30 by the Emergency Relief Appropriation Act of 1937 (c. 401, 50 Stat. 356), and to \$50 by the Emergency Relief Appropriation Act of 1938 (c. 554, 52 Stat. 814). The latter Act provided that effective July 1, 1938, the aggregate payments shall not exceed \$4000. The Act of October 14, 1949 (63 Stat. 869), repealed the provisos to the 1937 and 1938 Emergency Relief Appropriation Acts setting monthly limits of \$30 and \$50 respectively and, effective November 1, 1949, provided that the maximum monthly compensation shall not exceed \$100 and set a minimum monthly pay for computation purposes of \$75. The 1949 amendment eliminated the \$4000 maxi-

September 7, 1916 (U.S.C., title 5, sec. 785) as amended, are hereby extended, so far as they may be applicable, to employees of the Federal Civil Works Administration only for disability or death resulting from traumatic injury while in the performance of duty, subject, however, to the following conditions and limitations:

(a) that the aggregate monetary compensation in any individual case, except compensation for death or for permanent total disability, shall not exceed the sum of \$4,000 and that the monthly monetary compensation shall not in any event exceed \$150, both exclusive of medical costs;

(b) that, in lieu of the minimum limit on monthly compensation for disability established by section 6 and the minimum limit on the monthly pay on which death compensation is to be computed as provided by section 10 (K) of such Act, the monthly pay on the basis of which compensation for disability or death is computed shall be deemed to be not less than \$150 and compensation shall be payable on the basis of such pay regardless of the actual pay at the time of injury or death, except that the Secretary of Labor "may from time to time, by regulation, fix a lower minimum monthly pay as a basis for computing such compensation as to any class of individuals, specified in the fourth paragraph of section 42 of such Act, as amended, who sustained injury or were killed outside the continental United States;

(c) that the Secretary of Labor may from time to time, subject to the above limitations, establish a special schedule of compensation for disability and for death (including a special schedule of compensation for the loss, or loss of use, of members or functions of the body), and compensation under such schedule shall be in lieu of all other compensation in such cases;

(d) that the rights of any person employed by the Federal Civil Works Administration to compensation or other benefits which may have accrued prior to and including the date of approval of this Act under the provisions of the Act of September 7, 1916, as amended

num total aggregate in cases involving death or permanent total disability. The amendment of September 13, 1960, raised the maximum monthly amount and the minimum monthly pay to the above-stated amounts.

By numerous emergency relief appropriation acts, Congress provided specific provisions which enabled workmen's compensation benefits to be awarded pursuant to the Act of February 15, 1934, to certain beneficiaries covered by that Act. These acts are as follows: 1933 (c. 48, 49 Stat. 115); 1936 (c. 689, 49 Stat. 1608); 1937 (c. 401, 50 Stat. 356), amended October 14, 1949 (c. 691, 63 Stat. 854); 1938 (c. 554, 52 Stat. 814), amended February 4, 1939 (53 Stat. 507), and October 14, 1949 (c. 691, 63 Stat. 854); 1939 (c. 252, 53 Stat. 927); fiscal year 1941 (c. 432, 54 Stat. 622); fiscal year 1942 (c. 266, 55 Stat. 404); 1943 (c. 479, 56 Stat. 642).

In addition to coverage of persons rendering services as employees of the United States, Congress specifically extended coverage of the Act of February 15, 1934, by various emergency relief appropriation acts to persons rendering service under the National Youth Administration (created by Executive Order of June 26, 1935). These Acts are as follows: 1936 (c. 689, 49 Stat. 1608); 1937 (c. 401, 50 Stat. 356), amended October 14, 1949 (c. 691, 63 Stat. 854); 1938 (c. 554, 52 Stat. 814), amended February 4, 1939 (c. 1, 53 Stat. 507), and October 14, 1949 (c. 691, 63 Stat. 854); 1941 (c. 428, 54 Stat. 590); 1942 (c. 269, 55 Stat. 487); 1943 (c. 475, 56 Stat. 571). Further, the Act of December 20, 1944 (c. 615, sec. 8, 58 Stat. 829), authorizing funds for certain internal improvements in the Virgin Islands in part stated: "The provisions of the Act of February 15, 1934 (48 Stat. 531), as amended, relating to disability or death compensation and benefits shall apply to persons (except administrative employees qualifying as civil employees of the United States) receiving compensation from funds appropriated pursuant to this [1944] Act for services rendered as employees of the United States. *Provided*, That this section shall not apply in any case coming within the purview of the workmen's compensation laws of the Virgin Islands, or in any case in which the claimant has received or is entitled to receive similar benefits for injury or death." 48 U.S.C.

Subsequent to 1943, compensation benefits authorized by the Act of February 15, 1934 and by the several emergency relief appropriation acts were paid from the annual appropriation to the Employees' Compensation Fund.

²⁴ See notes 1 and 5, *supra*.

(U.S.C., title 5, ch. 15), and/or the rules and regulations of the Federal Civil Works Administration shall terminate upon the date of the approval of this Act; and thereafter compensation and other benefits to any such person for death or disability arising before or after the date of the approval of this Act shall be paid in accordance with the provisions hereof;

(e) that the said Secretary is hereby authorized in his discretion to provide for the initial payments of compensation and the furnishing of immediate medical attention as herein provided through the local representatives of the Federal Civil Works Administration;

(f) that no claim for legal services or for any other services rendered in respect of a claim or award for compensation, to or on account of any person, shall be valid unless approved by the Secretary; and any person who receives any fee, other consideration, or any gratuity on account of services so rendered, unless such consideration or gratuity is approved by the Secretary, or who makes it a business to solicit employment for a lawyer or himself in respect of any claim or award for compensation, shall be guilty of a misdemeanor, and upon conviction thereof shall, for each offense, be punished by a fine of not more than \$1,000 or by imprisonment not to exceed one year or by both such fine and imprisonment: *Provided further*, That traumatic injury shall mean only injury by accident causing damage or harm to the physical structure of the body and shall not include a disease in any form except as it shall naturally result from the injury: *And provided further*, That so much of the sum appropriated by this Act as the Secretary of Labor, with the approval of the Director of the Budget, estimates and certifies to the Secretary of the Treasury will be necessary for administrative expenses and for the payment of such compensation shall be set aside in a special fund to be administered by the Secretary for such purposes; and after June 30, 1935, such special fund shall be available for these purposes annually in such amounts as may be specified therefor in the annual appropriation acts.

CIVILIAN CONSERVATION CORPS

⁸² Enrollees shall be provided, in addition to the monthly rates of pay, with such quarters, subsistence, and clothing, or commutation in lieu thereof, medical attention, hospitalization, and transportation as the Director may deem necessary: *Provided*, That burial, embalming, and transportation expenses of deceased enrolled members of the Corps, regardless of the cause and place of death, shall be paid in accordance with regulations of the Secretary: ⁸³ *Provided further*, That the provisions of the Act of February 15, 1934 (U.S.C. 1934 ed., title 5, sec. 796), relating to disability or death compensation and benefits shall apply to the enrolled personnel of the Corps.

⁸² Act of June 28, 1937, effective July 1, 1937 (c. 383, 50 Stat. 321). This Act was continued to July 1, 1943, by Act of August 7, 1939 (c. 553, 53 Stat. 1253). For liquidation of the Corps, see Acts of July 2, 1942 (c. 475, title II, 56 Stat. 509), and July 12, 1943 (c. 221, title II, 57 Stat. 498). For prior compensation provisions, see Act of June 19, 1934 (c. 648, 48 Stat. 1056), repealing sec. 3 of the Act of March 31, 1933 (c. 17, 48 Stat. 23), insofar as the 1933 statute related to enrollees of the Civilian Conservation Corps. The Act of March 31, 1933, until repealed, extended full benefits of the Federal Employees' Compensation Act to enrollees. For legislation pertaining to the enabling emergency appropriations, see note 80, *supra*.

⁸³ See notes 1 and 5, *supra*.

SAME; ENROLLEES RECEIVING TREATMENT AT GOVERNMENT EXPENSE

⁸⁴ That the Secretary ⁸⁵ shall furnish medical and hospital services and treatment and burial expenses, including transportation and other expenses incidental to such services, treatment and burial, to such enrollees of the Civilian Conservation Corps who may be certified by the Director of such Corps as receiving hospital services and treatment at Government expense on June 30, 1943, and who are not entitled thereto under the Act of September 7, 1916, as amended and extended, and the limitations and authority of the Act of September 7, 1916, as amended, shall apply in providing such services, treatment, and expenses.

This title may be cited as the "Employees' Compensation Commission Appropriation Act, 1944."

RELIEF FOR CERTAIN VETERANS, VICTIMS OF FLORIDA HURRICANE OF 1935

⁸⁶ That the provisions of the Act entitled "An Act to provide compensation for employees of the United States suffering injuries while in the performances of their duties, and for other purposes," approved September 7, 1916, as amended (U.S.C. 1934 ed., title 5, ch. 15) are hereby made applicable to any veterans of the World War or other person attached to camps known as "Veterans' Camps Numbered 1, 3, and 5," who was injured, died, or shall die as the direct result of the hurricane at Windlys Island and Matecumbe Keys, Florida, September 2, 1935, and to their dependents, to the same extent and under the same conditions as are provided for employees and the dependents of employees of the Federal Civil Works Administration in the Act entitled "An Act making an additional appropriation to carry out the purposes of the Federal Emergency Relief Act of 1933 for the continuation of the Civil Works program, and for other purposes" approved February 15, 1934 (U.S.C., 1934 ed., title 5, sec. 796), and the special fund established in the Treasury of the United States for administrative expenses and for the payment of compensation awarded to employees of the Civil Works Administration shall be available for the payment of the benefits authorized by this section. * * *

WAR RELOCATION WORK CORPS

⁸⁷ That the provisions of the Act of February 15, 1934 (48 Stat. 351), as amended, relating to disability or death compensation and benefits, shall apply to persons receiving from the United States compensation in the form of subsistence, cash advances, or other allow-

⁸⁴ Act of July 12, 1943 (c. 221, 57 Stat. 514). Similar relief provisions have been included in all annual compensation fund appropriations since 1943.

⁸⁵ See notes 1 and 5, *supra*.

⁸⁶ Act of June 26, 1936 (c. 867, title V, sec. 500, 49 Stat. 2035).

⁸⁷ Act of July 25, 1942 (c. 524, par. 12, 56 Stat. 710); repeated in Act of July 12, 1943 (c. 228, 57 Stat. 534); Act of June 28, 1944 (c. 301, 58 Stat. 545); and in Act of July 17, 1945 (c. 319, 59 Stat. 486).

ances in accordance with regulations prescribed by the Director of the War Relocation Authority for work performed in connection with such program, including work performed in the War Relocation Work Corps: *Provided further*, That this provision shall not apply in any case coming within the purview of the workmen's compensation laws of any State, Territory, or possession, or in which the claimant has received or is entitled to receive similar benefits for injury or death.

In addition, the Act of June 22, 1943 (c. 138, 57 Stat. 161), provided as follows with respect to Work Relief in Puerto Rico and the Virgin Islands:

APPROPRIATION FOR WORK RELIEF IN PUERTO RICO AND VIRGIN ISLANDS

That the Federal Works Administrator is authorized to provide work for employable needy persons on useful public projects in Puerto Rico and the Virgin Islands for the period July 1, 1943, to November 30, 1943, in accordance with the appropriate provisions and for the purposes prescribed in the Emergency Relief Appropriation Act, fiscal year 1943 [Act of July 2, 1942 (c. 479, sec. 17, 56 Stat. 634, 642), *supra* this note.] which provisions are hereby extended and made applicable to the appropriations made to carry out the purposes of this joint resolution. There is hereby authorized to be appropriated a sum not to exceed \$8,000,000 to carry out the provisions of this joint resolution, including administrative expenses in connection therewith.

VI. MISCELLANEOUS PROVISIONS AND REFERENCES

ARTIFICIAL MEMBERS FOR CERTAIN CIVILIAN EMPLOYEES INJURED PRIOR TO SEPTEMBER 7, 1916

⁵⁸ The Secretary of Labor, under such regulation as he may prescribe, is hereby authorized to furnish any civilian employee of the military or naval service, Regular Establishment, who lost a limb or the use thereof through injury or disease incurred or contracted in line of duty as such prior to September 7, 1916, with an artificial limb or other appliance, or commutation in lieu thereof, at least once in every three years, upon the application of the person entitled thereto, or someone on his behalf, including necessary transportation to effect the fitting thereof and the compensation fund, established pursuant to section 35 of the Act approved September 7, 1916 (U.S.C. title 5, sec. 785) (5 U.S.C.A. sec. 785), shall be available for expenditures under this section: *Provided*, That the commutation payable to any civilian employee in lieu of such artificial limb or other appliance shall be in the amount last paid to such employee under laws repealed by section 3 of this Act.

⁵⁸ Act of May 23, 1944 (c. 202, sec. 2, 58 Stat. 225; 5 U.S.C. 791b).

SEAMEN EMPLOYED THROUGH WAR SHIPPING ADMINISTRATION

⁸⁹ Officers and members of crews * * * employed on United States or foreign flag vessels as employees of the United States through the War Shipping Administration shall * * * have all of the rights, benefits, exemptions, privileges, and liabilities, under law applicable to citizens of the United States employed as seamen on privately owned and operated American vessels. Such seamen * * * shall not be considered as officers or employees of the United States for the purposes of the United States Employees' Compensation Act, as amended (chapter 15 of Title 5) * * *.

PAYMENTS TO MERCHANT SEAMEN FOR WORLD WAR II. SERVICE
CONNECTED INJURIES, ETC.

⁹⁰ The Secretary of Commerce shall certify to the Secretary of Labor amounts payable under crew life and injury and second seamen's war risk insurance policies issued under authority of subtitle "Insurance" of title II of the Merchant Marine Act, 1936, as amended, extended, and supplemented (Act of June 29, 1940, section 222 (54 Stat. 689); Act of March 6, 1942 (56 Stat. 140); Act of April 11, 1942 (56 Stat. 214); Act of March 24, 1943, section 2 (57 Stat. 45); Act of September 30, 1944 (58 Stat. 758); Act of August 8, 1946 (60 Stat. 937)). Payments of such amounts so certified shall be made by the Secretary of Labor from the Employees' Compensation Fund established under the Federal Employees' Compensation Act of September 7, 1916, as amended (5 U.S.C. 751, 785).

Sec. 2. The powers, duties, and functions of the Secretary of Commerce in respect of permanent total or partial disability benefits (allowable upon exhaustion of insurance benefits referred to in section 1 hereof) under section 2(c) of the Act of March 24, 1943 (Public Law 17, Seventy-eighth Congress; 57 Stat. 45), as amended by the Act of September 30, 1944 (Public Law 449, Seventy-eighth Congress; 58 Stat. 758), are hereby transferred to the Secretary of Labor. Payments of such benefits, including costs and payments on account of medical care authorized by the Secretary of Labor, shall be made by him from the Employees' Compensation Fund as established under the Federal Employees' Compensation Act of September 7, 1916, as amended (5 U.S.C. 751, 785). The Secretary of Commerce shall furnish to the Secretary of Labor such information, data and reports and certifications in respect of cases within the purview of this section as the Secretary of Labor may request. Nothing in this section shall be construed to authorize any appeal to, or review or redetermination by, the Secretary of Labor from any order, finding, determination, or adjudication in respect of eligibility for benefits made by the Secretary of Commerce in force on the effective date of this Act, except upon a

⁸⁹ Act of March 23, 1943 (c. 26, 57 Stat. 45; 50 U.S.C. app. 1291). Prior to March 23, 1943, under General Orders promulgated by the War Shipping Administration and under certain contracts, seamen hired for the account of the War Shipping Administration became employees of the United States Government.

⁹⁰ Act of September 8, 1939 (73 Stat. 469).

showing to the satisfaction of the Secretary of Labor of a change in the nature and extent of the disability for which benefits were approved for payment in accordance with the provisions of such Acts.

SEC. 3. The Secretary of Labor is authorized to make such rules and regulations as he may deem necessary or appropriate to carry out the provisions of this Act and the functions vested in him by this Act.

COMPENSATION PAID TO EMPLOYEES OF U.S. SHIPPING BOARD

⁹¹ That the compensation heretofore or hereafter paid by the United States Shipping Board Emergency Fleet Corporation to or on account of employees for disability or death resulting from personal injuries sustained while in the performance of their duties shall be in full satisfaction of the claims of such employees or their legal representatives against the United States.

FIRE PROTECTION AGREEMENTS

⁹² Any service performed pursuant to reciprocal fire fighting agreements between agencies of the United States and public or private fire organizations by any officer, employee or member of any armed service of the United States constitutes service rendered in line of duty in such office, employment, or force. However, the performance of such service by any other individual shall not constitute such individual an officer or employee of the United States for the purposes of the Federal Employees' Compensation Act.

PAYMENT OF VETERANS' PENSIONS; PEACETIME SERVICE DISABILITY

For information pertaining to election of benefits for peacetime service disability or death see Part IV A, entitled *Military Extensions—Repeal of Coverage*, and the footnotes thereto. Veterans Regulations No. 1(a) Part II promulgated pursuant to ch. 12, title 38 U.S.C. (omitted from the 1958 recodification of Title 38 U.S.C.) provides as follows:

* * * Pension under this paragraph shall not be paid concurrently with active duty pay or employees' compensation. Where a person who is eligible for pension hereunder is also eligible for the benefits of Employees' Compensation Act, he shall elect which benefit he shall receive.

⁹¹ Act of December 24, 1919 (c. 17, 41 Stat. 377). The Act of February 11, 1927 (c. 104, sec. 1, 44 Stat. 1083; 5 U.S.C. 795), changed the name of the U.S. Shipping Board to the United States Shipping Board Merchant Fleet Corporation which was dissolved by Act of June 29, 1936 (c. 858, 49 Stat. 1987).

⁹² Act of May 27, 1955 (c. 105, 69 Stat. 67; 42 U.S.C. 1856c).

CIVIL SERVICE RETIREMENT ANNUITY ACT PROVISIONS RELATING TO COMPENSATION BENEFITS

⁹⁵ No person shall be entitled to receive an annuity under the provisions of this Act, and compensation for injury or disability to himself under the provisions of the Act of September 7, 1916, entitled "An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes," covering the same period of time; but this provision shall not be so construed as to bar the right of any claimant to the greater benefit conferred by either Act for any part of the same period of time, nor shall this provision nor any provision in such Act of September 7, 1916, be construed so as to deny to any person an annuity accruing to such person under this Act on account of service rendered by him, or to deny any concurrent benefit to such person under such Act of September 7, 1916, on account of the death of any other person.

Notwithstanding any provision of law to the contrary, the right of any person entitled to an annuity under this Act shall not be affected because such person has received an award of compensation in a lump sum under section 14 of such Act of September 7, 1916 (5 U.S.C. 751), except that where such annuity is payable on account of the same disability for which compensation under section 14 of such Act of September 7, 1916, has been paid, so much of such compensation as has been paid for any period extended beyond the date such annuity becomes effective, as determined by the Secretary of Labor, shall be refunded to the Department of Labor, to be covered into the Federal Employees' Compensation Fund. Before such person shall receive such annuity he shall (1) refund to such Department the amount representing such commuted payments for such extended period, or (2) authorize the deduction of such amount from the annuity payable to him under this Act, which amount shall be transmitted to such Department for reimbursement to such fund. Deductions from such annuity may be made from accrued and accruing payments, or may be prorated against and paid from accruing payments in such manner as the Secretary shall determine, whenever he finds that the financial circumstances of the annuitant are such as to warrant such deferred refunding.

ABOLITION OF COMMISSION AND TRANSFER OF FUNCTIONS

ESTABLISHMENT OF THE BUREAU OF EMPLOYEES' COMPENSATION

SEC. 3 of 1946 Reorganization Plan No. 2, effective July 16, 1946, 11 F.R. 7873, 60 Stat. 1096, provided as follows:

"The Functions of the United States Employees' Compensation Commission are transferred to the Federal Security Agency and shall be performed in such manner and under such rules and regulations as the Federal Security Administrator shall prescribe. Such

⁹⁵ Act of July 3, 1926 (c. 801, sec. 6, 44 Stat. 907); Act of May 29, 1930 (c. 349, sec. 6, 46 Stat. 472); Act of December 23, 1944 (c. 728, 58 Stat. 927); Act of July 27, 1946 (c. 684, 60 Stat. 706; 5 U.S.C. 2257 (f) and (g)). See also section 7, Federal Employees' Compensation Act.

regulations shall provide for a board of three persons to be designated or appointed by the Federal Security Administrator with authority to hear and, subject to applicable law, make final decision on appeals taken from determinations and awards with respect to claims of employees of the Federal Government or of the District of Columbia. The United States Employees' Compensation Commission is abolished."

Effective July 16, 1946, the Federal Security Administrator established the Bureau of Employees' Compensation under the supervision of a Director and delegated, to be performed by him, all the duties, powers, and functions of the United States Employees' Compensation Commission which were transferred to the Administrator by Reorganization Plan No. 2 of 1946, except estimates to the Bureau of the Budget and annual and other reports to Congress. See Agency Order No. 58, dated July 16, 1946, 11 F.R. 7943.

TRANSFER OF THE FUNCTIONS OF THE BUREAU TO THE DEPARTMENT OF
LABOR

SEC. 1 of Reorganization Plan No. 19 of 1950, effective May 24, 1950, 15 F.R. 3178, 39 Stat. 742, provided as follows:

"The Bureau of Employees' Compensation of the Federal Security Agency, together with its functions, is transferred to the Department of Labor and shall be administered under the direction and supervision of the Secretary of Labor. The functions of the Federal Security Administrator, and of the Federal Security Agency, with respect to the Bureau of Employees' Compensation and with respect to employees' compensation (including workmen's compensation) are transferred to the Secretary of Labor: *Provided*, That there are not transferred by the provisions of this reorganization plan (1) any function of the Public Health Service; (2) any function of the Federal Security Agency or the Federal Security Administrator under the Vocational Rehabilitation Act, as amended (including the function of assuring the development and accomplishment of State rehabilitation plans affecting beneficiaries under the Federal Employees' Compensation Act); nor (3) the function of developing or establishing rehabilitation services or facilities. The functions transferred by the provisions of this section shall be performed by the Secretary of Labor, or, subject to his direction and control, by such officers, agencies, and employees of the Department of Labor as he shall designate."

Effective May 24, 1950, the Secretary of the Department of Labor directed that all functions, powers, and duties vested in the Secretary of Labor under sec. 1 of Reorganization Plan No. 19 of 1950 would be performed by or under the direction of the Director of the Bureau of Employees' Compensation except those functions relating to (1) personnel and business management, (2) the preparation and submission of annual and other reports and recommendations to Congress, and (3) so much of the functions, duties, and powers authorized under section 41 of the Longshoremen's and Harbor Workers' Compensation Act, and as authorized under section 33 (b) and (c) of the Federal Employees' Compensation Act, as relate to safety investigations, recom-

mendations to employers, and the developing, supporting and fostering of organized safety promotion. See Department of Labor General Order No. 46, dated May 21, 1950, and Amendment No. 1 of September 6, 1950 and General Order No. 46 (Revised), dated October 13, 1959 (24 F.R. 72).

ESTABLISHMENT OF THE EMPLOYEES' COMPENSATION APPEALS BOARD

Federal Security Agency Order No. 58, dated July 16, 1946, 11 F.R. 7943, established an Employees' Compensation Appeals Board to hold hearings and make decisions on appeals taken from determinations and awards, with respect to claims of employees of the Federal Government or of the District of Columbia, under the Federal Employees' Compensation Act. For regulations governing such appeals see 20 CFR, Parts 501 and 502.

TRANSFER OF THE FUNCTIONS OF THE EMPLOYEES' COMPENSATION APPEALS BOARD TO THE DEPARTMENT OF LABOR

Sec. 2 of Reorganization Plan No. 19 of 1950, effective May 24, 1950, 15 F.R. 3178, 39 Stat. 742, provided as follows:

"The Employees' Compensation Appeals Board of the Federal Security Agency, together with the functions thereof, is transferred to the Department of Labor. The functions of the Federal Security Administrator with respect to the Employees' Compensation Appeals Board are transferred to the Secretary of Labor. The Board shall continue to have authority to hear and, subject to applicable law and the rules and regulations of the Secretary of Labor, to make final decision on appeals taken from determinations and awards with respect to claims of employees of the Federal Government or of the District of Columbia." See Department of Labor General Order No. 46 (Revised), dated October 13, 1959 (24 F.R. 72).